

TABLE OF CONTENTS

		Page
1		
2	ARTICLE I.	PURPOSE 1
3	Section 1 1
4	ARTICLE II.	GENERAL PROVISIONS 1
5	Section 2.	Rules of Construction 1
6	Section 3.	Definitions 1
7	Section 4.	Structures and Uses Affected by Zoning. 6
8	Section 5.	Continuance of Nonconforming Structures or Uses 6
9	A.	Nonconforming Structures. 6
10	B.	Nonconforming Uses. 6
11	Section 6.	Amortization of Nonconforming Uses or Buildings 7
12	Section 7.	Nonconformance Due to Re-Classification 7
13	Section 8.	General Use Provisions. 7
14	A.	District Classifications. 7
15	B.	Off-Street Parking. 7
16	C.	Off-Street Loading and Unloading. 9
17	D.	Parking Area Improvement. 10
18	E.	Permanency of Spaces Provided 11
19	F.	Front and Side Yards in All Residential Districts 11
20	ARTICLE III.	DISTRICTS 12
21	Section 9.	Establishment and Designation 12
22	Section 10.	Boundaries. 13
23	ARTICLE IV.	DISTRICT REGULATIONS. 13
24	Section 11.	Conformity With Chapter Required. 13
25	Section 12.	Contingent Uses - All Districts 13
26	Section 13.	Special Uses - Specified Districts. 14
27	Section 14.	Regulated Uses. 18
28	Section 15.	Permitted Uses - Specified Districts. 21
29	A.	"R1" District 21
30	B.	"R2" District 21
31	C.	"R3" District 21
32	D.	"RA" and "RB" District. 22
33	E.	"B1A" District. 26
34		"B1B" District. 28
35	F.	"B2" - "B2A" - Regional & Neighborhood Shopping Centers. 29
36	G.	"B3A" and "B3B" District. 32
37	H.	"B4" District 33
38	I.	"M1" District 34
39	J.	"M2" District 35
40	K.	"M3" District 36
41	L.	"IA" District 37
42	M.	"MHP" District. 41
43	N.	Planned Unit Development. 43
44	Section 16.	Height Requirements - All Districts 54
45	Section 17.	Residential Lot Area Requirements 56
46	Section 18.	Yard Requirements - All Districts 59
47	Section 19.	Lot Coverage in Specified Districts 62
48	Section 20.	Residential Building Size - Specified Districts 62
49	ARTICLE V.	ADMINISTRATION AND ENFORCEMENT. 63
50	Section 21.	Improvement Location Permit 63
51	Section 22.	Certificate of Occupancy 64
52	Section 23.	Completion of Existing Buildings. 64
53	Section 24.	Enforcement 65
54	Section 25.	Filing Fees 65
55	Section 26.	Penalties 65
56	ARTICLE VI.	BOARD OF ZONING APPEALS 66
57	Section 27.	Organization. 66

1	Section 28.	Meetings	66
	Section 29.	Procedure.	66
2	Section 30.	Powers of the Board of Zoning Appeals.	66
3	ARTICLE VII.	PRIVATE RESTRICTIONS	67
	Section 31.	When Chapter More Restrictive.	67
4	Section 32.	When Other Provisions More Restrictive	67
5	ARTICLE VIII.	SEVERABILITY	67
	Section 33.	67
6	ARTICLE IX.	HISTORICAL DISTRICTS	67
7	Section 34.	Purpose of Article	67
	Section 35.	Designation.	67
8	Section 36.	Permit for Alteration or Destruction of Structures - Application.	67
9	Section 37.	Same - Issuance.	67
	Section 38.	Same - Refusal	68
10	Section 39.	Termination of Historical Zoning - Repealed.	68
	Section 40.	Saving Clause.	68
11	ARTICLE X.	FLOOD PLAIN MANAGEMENT AND CONTROL	68
12	Section 41.	General Criteria For Flood Plain Regulations	68
	Section 42.	Definitions	69
13	Section 43.	Flood Hazard Area Delineation.	70
	Section 44.	Establishment of District Boundaries	70
14	Section 45.	District Boundaries Changes Thereto	70
	Section 46.	General Flood Plain District (GF).	70
15	Section 47.	Floodway Districts (FW)	71
	Section 48.	Floodway - Fringe District (FF).	73
16	Section 49.	Conditions Attached to "Special Permits"	74
	Section 50.	Nonconforming Uses	74
17	Section 51.	Variances	74
	Section 52.	Warning and Disclaimer of Liability.	75
18	Section 53.	Severability.	75
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
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32			
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79-02-18
79-04-23
BILL NO. G-78-11

GENERAL ORDINANCE NO. G-_____

AN ORDINANCE classifying, regulating and restricting the location, height, area, bulk and use of buildings and structures and the use of land within the territorial jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana, for said purposes dividing such territory into districts, and amending Chapter 33 of the Code of the City of Fort Wayne, Indiana, 1974.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 33 of the Code of the City of Fort Wayne, Indiana, of 1974, be and the same is hereby amended to be and read as follows:

ARTICLE I. PURPOSE

Section 1. The zoning regulations and zone districts as herein set forth are made in accordance with a comprehensive plan in order that adequate light, air, convenience of access, and safety from fire, flood and other danger may be secured; that congestion in the public streets may be lessened or avoided; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values throughout the territory under the jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana.

ARTICLE II. GENERAL PROVISIONS

Section 2. RULES OF CONSTRUCTION. In this chapter words used in the present tense include the future, the singular includes the plural and the plural the singular. Unless otherwise specified, all distances shall be measured horizontally, in any direction.

Section 3. DEFINITIONS. The following terms, unless a contrary meaning is required by the context or specifically otherwise prescribed, shall have the following meanings:

(1) Accessory Building and Use

- (a) A building or use subordinate to another structure or use located on the same lot and which does not change or alter the character of the premises.
- (b) Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.
- (c) Where a substantial part of the wall of an accessory building is part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof, such accessory building shall be counted as part of the main building.

(2) Accessory Living Quarters - Living quarters within an accessory building for the sole use of persons employed on the premises; such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.

(3) Alley - A right-of-way other than a street, road, crosswalk or easement, designed for the special accommodation of the property it reaches.

(4) Block Face - The sides of two city blocks that face a common street.

(5) Block Group - A block group is a combination of contiguous blocks having a combined average population of about 1,000. Block groups are approximately equal in area (discounting parks, cemeteries, railroads, yards, industrial plants, rural areas, etc.); they are subdivisions of census tracts which simplify numbering and data control. Each block is identified by the first digit of the three-digit block number. Block group "1" will contain any block in range 101-199, block group "2" in range 201-299, etc.

(6) Board - The Board of Zoning Appeals of the City of Fort Wayne.

(7) Building - A structure having a roof supported by columns or walls designed, built or used for the enclosure, shelter or protection of persons, animals, chattels or property.

(8) Building, Detached - A building having no structural connection with another building.

(9) Building, Height of - The vertical distance measured from the adjoining street centerline grade at a point opposite the center of the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. Where the buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

(10) Building Line - The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

(11) Building, Main - A building constituting the principal use of a lot.

(12) Building, Nonconforming - A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the district in which such building is located.

(13) Building, Semi-Detached - A main building having one wall in common with an adjacent main building.

(14) Camp Ground - Any area or tract of land used or rented for occupancy by campers using tents for periods not to exceed two weeks.

(15) Cemetery - Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

(16) Certificate of Occupancy - A certificate issued by the Zoning Enforcement Officer stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

(17) Clinic or Medical Health Center - An establishment where patients are admitted for special study and treatment by two or more licensed physicians and their professional associates, practicing medicine together.

(18) Commission - The Fort Wayne City Plan Commission.

(19) District or Zone - A section of the territorial jurisdictional area of the Fort Wayne City Plan Commission for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, and open spaces about buildings, are established by this chapter.

(20) Dwelling - A building of portion thereof, used primarily as a place of abode for one or more human beings, but not including hotels, lodging or boarding houses or tourist homes.

(21) Dwelling, Multiple Family - A building or portion thereof used for occupancy by two, three or more families living independently of each other.

(22) Dwelling, One Family - A building used for occupancy by one family.

(23) Dwelling, Two Family - A building used for occupancy by two families living independently of each other.

(24) Dwelling Unit - A dwelling or a portion of a dwelling or of an apartment hotel used by one family for cooking, living and sleeping purposes.

(25) Educational Institution - Public, parochial, charitable or non-profit junior college, college or university, other than trade or business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.

(26) Extended Group Home - A facility located in a residential community providing shelter and/or rehabilitation for from seven (7) to fourteen (14) children under the age of eighteen (18) years, referred by a governmental body or duly licensed social service agency, who for various reasons cannot reside in their family home. Twenty-four hour adult supervision is mandatory and professional supervision and consultation is available to both child care staff and children. The purpose of this type of facility is to provide a service for the child who does not need the structure of an institution in that he/she does not present a threat to the community, yet is not a foster home candidate. The goal of the service is to return home, other placement or emancipation, depending upon the age of the child and the circumstances of his/her family.

(27) Family - One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses home, fraternity or sorority house. A family shall be deemed to include servants.

(28) Garage, Private - A detached accessory building or a portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three vehicles, or not more than one and one-half vehicles per family housed in the building to which such garage is accessory, whichever is the greater.

(29) Garage, Public - Any building or structure other than a private garage, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

(30) Half-Way House - A resident facility for sixteen (16) or less persons eighteen (18) years of age or older, referred by a governmental body or duly licensed social service agency, which provides short-term rehabilitative services in a transitional environment, to persons who are physically, emotionally or socially handicapped. The goal of the service is to aid the individual's successful re-entry into the community as an independent and a productive member.

(31) Home Occupation - Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no commodity sold upon the premises except that which is produced thereon, and provided, however, in no event shall a barbershop, beauty parlor, tea room or animal hospital be construed as a home occupation.

(32) Hotel or Motel - A structure or portion thereof in which more than five guest rooms are used to provide or offer temporary accommodations for transient guests.

(33) Improvement Location Permit - A permit issued by the Zoning Enforcement Officer stating that the proposed erection, construction, enlargement or moving of the building or structure referred to therein complies with the provisions of this chapter.

(34) Junkyard - Including Automobile Wrecking - a lot or a part thereof used for the storage, keeping, dismantling, abandonment or sale of junk, scrap metal, scrap vehicles or scrap machinery or parts thereof.

(35) Kennel, Animal - Any place where more than three dogs or more than three any single type of domestic animals are kept. For this purpose such animals shall not be counted until they reach the age of six months.

(36) Limited Group Home - A facility located in a residential community providing shelter and/or rehabilitation for six (6) or less children under the age of eighteen (18) years, referred by a governmental body or duly licensed social service agency, who for various reasons cannot reside in their family home. Twenty-four hour adult supervision is mandatory and professional supervision and consultation is available to both child care staff and children. The purpose of this type of facility is to provide a service for the child who does not need the structure of an institution in that he/she does not present a threat to the community, yet is not a foster home candidate. The goal of the service is to return home, other placement or emancipation, depending upon the age of the child and the circumstances of his/her family.

(37) Lodging House - A building with more than two but not more than ten (10) guest rooms where lodging with or without meals is provided.

(38) Lot - A parcel, tract or area of land, it may be single parcel separately described in a deed or plat which is recorded in the Office of the County Recorder; it may be a part of a single parcel described in a deed or plat which is recorded in the office of the County Recorder, provided the part to be used is adequate in size to meet all yard requirements of the Zoning Ordinance; or it may include parts of a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of the street or any private access serving more than on main building shall be included.

(39) Lot, Corner - A lot at the junction of and abutting two or more intersecting streets.

(40) Lot, Front - That part of a lot adjacent to and parallel with the street. The front of a corner lot shall be considered as that part of the lot having the least amount of footage adjacent to and parallel with either one of the streets. Whenever such footage is the same on both of such streets, either part of the corner lot may be considered as the front of the lot.

(41) Lot, Through - A lot having frontage on two parallel or approximately parallel streets.

(42) Lot Width - The dimension of a lot, measured between side lot lines on the building line.

(43) Mobile Home, Dependent - A mobile home which requires service connection for sewer, water and power facilities and which is so designed or constructed to permit occupancy for dwelling or sleeping purposes.

(44) Mobile Home, Independent - One which does not require service connections for sewer, water or power and is so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

(45) Mobile Home Park - Any tract of ground designed for use or used by one or more mobile homes which provides the necessary services such as water, sewer and power connections for the dependent-type mobile homes as defined in this ordinance.

(46) Parking Area, Public - An open area, other than a street or alley designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers.

(47) Parking Space (Off-Street, One) - A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than 9 feet wide and 20 feet long exclusive of passageways.

(48) Person - A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

(49) Private School - Private preprimary, primary, grade, high or preparation school or academy.

(50) Sign - Any board, device or structure or part thereof used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included herein.

(51) Story - That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four (4) feet.

(52) Story, Half - A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

(53) Street - A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of law.

(54) Structure - Anything constructed or erected which requires location in or on the ground or attachment to something having a location in or on the ground.

(55) Territorial Jurisdiction - The City of Fort Wayne, Indiana, and the contiguous unincorporated areas outside of the City of Fort Wayne shown on a map on file in the office of the County Recorder of Allen County, Indiana.

(56) Tourist Home - A building in which one but not more than five (5) guest rooms are used to provide or offer overnight accommodations for transient guests.

(57) Trade or Business School - Secretarial or Business School or College when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical skills.

(58) Trailer Park - Any tract of ground designed for use or used by one or more trailers of the independent mobile home type defined in this ordinance and which is used for dwelling or sleeping purposes regardless of whether a charge is made for such accommodation.

(59) Use - The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

(60) Use, Nonconforming - An existing use of land or building which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located.

(61) Use, Open - The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to five (5) percent or less of the area of the lot.

(62) Yard - A space on the same lot with a main building, open, unoccupied and unobstructed by structures, except as otherwise provided in this chapter.

(63) Yard, Front - A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way line and the building line.

(64) Yard, Rear - A yard extending across the full width of the lot between the rear of the main building and the rear lot line the depth of which is the least distance between the rear lot line and the rear of such main building.

(65) Yard, Side - A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest point of the side lot line to the nearest part of the main building.

(66) Zoning Enforcement Officer - An official of the Plan Commission Staff of the City of Fort Wayne, Indiana who issues any and all required permits and enforces the provisions of this chapter and the planning and zoning laws of the State of Indiana within the planning jurisdiction of the Fort Wayne Plan Commission.

Section 4. STRUCTURE AND USES AFFECTED BY ZONING. No structure or land shall hereafter be used and no structure or part thereof shall be erected, moved or altered unless in conformity with the provisions of this chapter.

Section 5. CONTINUANCE OF NONCONFORMING STRUCTURES OR USES.

A. Nonconforming Structures.

(1) Maintenance Permitted - A nonconforming structure lawfully existing upon the effective date of this chapter may be maintained, except as otherwise provided in this section.

(2) Repairs - A non-conforming structure may be repaired or altered provided no structural change shall be made.

(3) Addition, Enlargements or moving

- (a) A structure nonconforming as to use or lot area per dwelling unit shall not be added to or enlarged in any manner unless such structure, including such addition or enlargement, is made to conform to the use and area requirements of the district in which it is located.
- (b) A structure nonconforming as to height or yard requirements shall be added to or enlarged in any manner unless such addition or enlargement conforms to all the requirements of the district in which it is located.
- (c) No nonconforming structure shall be moved in whole or in part to any other location on the lot on which it is located unless every portion of such structure is made to conform to all the requirements of the district in which it is located.

B. Nonconforming Uses.

1 (1) Continuation and Change of Use - Except as otherwise provided
2 in this chapter:

- 3 (a) A nonconforming use lawfully existing upon the effective
4 date of this chapter may be continued.
5 (b) A nonconforming use may be changed only to a use of the
6 same or more restricted classification.

7 (2) Expansion Prohibited

- 8 (a) A nonconforming use of a structure designed for a
9 conforming use shall not be expanded or extended into
10 any other portion of such conforming structure nor
11 changed except to a conforming use.
12 (b) A nonconforming use on a part of a lot shall not be
13 expanded or extended into any other portion of such lot.

14 Section 6. AMORTIZATION OF NONCONFORMING USES OR BUILDINGS.

15 A. Whenever a nonconforming use has been discontinued for a period
16 of twelve (12) months such use shall not thereafter be re-established and use
17 thereafter shall conform to the provisions of this chapter.

18 B. No building damaged by fire or other causes to the extent that
19 its restoration will cost more than double its assessed valuation shall be
20 repaired or rebuilt except to conform to the provisions of this chapter.

21 C. An nonconforming open use of land lawfully existing upon the
22 effective date of this chapter shall be discontinued on or before March 1, 1960.

23 D. Any nonconforming billboard or advertising structure not
24 attached to a building, lawfully existing upon the effective date of this
25 chapter shall be discontinued on or before March 1, 1965.

26 Section 7. NONCONFORMANCE DUE TO RE-CLASSIFICATION. The provisions
27 of Sections 5 and 6 shall also apply to structures and uses which hereafter
28 become nonconforming due to any zoning reclassification or inclusion pursuant
29 to this chapter or any change in the provisions in this chapter and any
30 open use of land referred to in subsection (c) of Section 6 which has existed
31 as a nonconforming open use of land under Chapter 36 of the Municipal Code
32 of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance
33 2836 adopted January 11, 1955, shall be discontinued when said land has
34 existed as a nonconforming open use for a period of five (5) years; or has
35 been a nonconforming open use of land under this Act as amended plus any
nonconforming open use under the zoning laws of Allen County, Indiana for
periods of time totalling five (5) years.

Section 8. GENERAL USE PROVISIONS.

A. District Classification.

The terms R District, B District or M District shall be
deemed to refer respectively to all district designated
by the same letter; e.g., B District shall include the
BLA, BLB, B2, B2A, B3A, B3B and B4 Districts.

B. Off-Street Parking.

(1) Minimum Requirements: The following off-street parking
spaces shall be provided and maintained by the owner of or person using
property for each building which is hereafter erected or the use of which
is hereafter change from a use described under any one of the numbered sub-
paragraphs of the lettered subsections of Section 14 of this chapter, to a use
described under a different numbered subparagraph of a lettered subsection of
Section 14 of this chapter and which new use requires a greater number of
parking spaces by the standards hereinafter in this subsection B prescribed:

- 1 (a) For any dwelling unit - At least one and one half
2 (G-97-70, 8/25/70) (1 1/2) parking spaces plus one parking space for each
3 two (2) sleeping rooms rented to persons not members
4 of the family occupying the dwelling unit.
- 5 (b) For any auditorium, gymnasium, stadium or theatre, or
6 any other similar place of assembly, except churches -
7 At least one parking space for each six (6) seats
8 based on the maximum seating capacity, including fixed
9 and movable seats.
- 10 (c) For any hotel in a B3A or B3B District, apartment hotel,
11 club house, dormitory, fraternity house or any other
12 similar use - At least one parking space for each two
13 (2) sleeping rooms.
- 14 (d) For any hotel in a B4 District or any other similar use -
15 At least one parking space for each sleeping room.
- 16 (e) For any place of assembly without fixed seats - At
17 least one parking space for each 120 square feet of
18 gross floor area thereof.
- 19 (f) For any bank, funeral home, office building, professional
20 office, library, museum, welfare institution or any other
21 similar use - At least one parking space for each 400
22 square feet of gross floor area thereof.
- 23 (g) For any medical clinic or any other similar use - At
24 least three parking spaces for each doctor or dentist
25 using the clinic, plus one space for each two regular
26 employees including nurses.
- 27 (h) For any hospital, sanitarium, sanatorium, convalescent
28 home or any other similar use - At least one parking
29 space for each three beds or any portion thereof.
- 30 (i) For any eating or drinking establishment or any other
31 similar use where customers are seated and served within
32 a building - At least one parking space for each 200
33 square feet of gross floor area thereof.
- 34 (j) For any eating or drinking establishment or any other
35 similar use where customers are served outside of a
building - At least one parking space for each 50
square feet of gross area thereof, provided, however,
that there shall be not less than six (6) parking
spaces for each such establishment.
- (k) For any furniture store, household appliance store or
mechanical trades display store or any other similar
use - At least one parking space for each 1,000 square
feet of gross ground floor area thereof plus one space
for each 1,500 square feet of the gross area of floors
other than the ground floor used for sales, display or
show purposes.
- (l) For any food market establishment or any other similar
use, with a gross floor area of less than 2,500 square
feet - At least one parking space for each 200 square
feet of gross floor area thereof.
- (m) For any food market establishment or any other similar
use, with a gross floor area in excess of 2,500 square
feet - At least one parking space for each 75 square
feet of gross floor area thereof.
- (n) For any retail store or service, except those specified
above - At least one parking space for each 400 square
feet of gross floor area thereof.
- (o) For any manufacturing, processing, wholesaling, storage,
or any other industrial use or commercial establishment
not specifically set out in this subsection - At least
one parking space for each two employees, plus sufficient
spaces to park all company-owned or leased motor vehicles,
semi-trailers and trailers.

- (p) For any Launderette, Laundromat, Self-Service Laundry, Washeteria or any similar use - At least one parking space for each two washing machine or portion thereof.
- (q) For any bowling alley - At least four parking spaces for each bowling alley thereof.
- (r) For any trailer coach park - At least one parking space on the same parcel of land for each individual house trailer.
- (s) For any commercial or business office having a gross floor area in excess of 10,000 square feet and occupied solely by the employees of one person, as defined in this chapter - At least one parking space for each 800 square feet of gross floor area thereof.

(2) Mixed Uses - In the case of mixed uses in the same building or structure, the total requirement for the off-street parking facilities shall be the sum of the requirements of the various uses computed separately on the basis of the items set out in this section and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified in Section 9B (3) hereof.

(3) Collective Parking Facilities - Nothing in this section shall be construed to prevent collective provision for any off-street parking facilities for two or more buildings or uses; provided, however, that the total number of off-street parking spaces shall not be less than the sum of the requirements for the various individual uses involved computed separately on the basis of the items set out in this section.

(4) Where Provided - All parking spaces provided pursuant to this section shall be on the same lot with the building or use for which such spaces are required, except that the Board, after public hearing, may permit the parking spaces to be on any lot within three hundred feet of the building; provided, that the requirements of subparagraphs (d) and (r) of paragraph (1) of this subsection shall not be waived; provided, however, that if the Board determines, after public hearing, that it is impractical to provide parking spaces on the same lot with the building or use for which such spaces are required, or within three hundred feet thereof, the Board may permit the parking spaces to be on a lot a greater than three hundred feet from such building or use, subject to appropriate conditions imposed by the Board regarding such location, character or other features of the proposed lot for parking spaces as are reasonably required for the purpose of this chapter; provided, further, that in the area bounded by the Pennsylvania Railroad right-of-way, Webster Street, Superior Street and Lafayette Street, if the Board determines, after public hearing, that any part of the area within three hundred feet of the building to be erected or use to be established is regularly occupied or used by existing structures or uses, or is otherwise unavailable, the Board shall waive all of the requirements of this subsection B as to all parking spaces not provided by reason of such occupancy, use or other unavailability.

(5) Distance Measurements - The distance to any parking space area as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking facility is to serve.

(6) Access - All parking facilities provided pursuant to this section, except those required by subparagraphs (a), (g) and (o) of subsection (1) above, shall be directly accessible from a street.

C. Off-Street Loading and Unloading.

On the same premises with every building, structure or part thereof, hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, laundry, dry cleaning or other uses, involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and

maintained space for vehicles standing, loading, and unloading as follows:

A 12-foot by 35-foot loading space with 14-foot height clearance for every 20,000 square feet or fraction thereof of floor area in excess of 3,000 square feet of floor area used for abovementioned purposes, or for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of land used for the abovementioned purposes. Provided, however, that in no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this chapter.

D. Parking Area Improvement.

(1) The Board of Public Works of the City of Fort Wayne is hereby authorized and required to prescribe minimum specifications for paving, surfacing, drainage of all land used for off-street parking, whether required by this chapter or otherwise, and all driveways thereto.

(2) All land which is hereafter placed in use for off-street parking and all driveways thereto, and all land which has been put to such use since on or after December 3, 1969, and which is hereafter to be used for off-street parking; shall be paved or surfaced and shall be drained with materials and in a manner which meets the minimum specifications and standards for parking lots adopted December 2, 1969, by the Board of Public Works of the City of Fort Wayne, and any current or future amendments thereto by said Board, provided, however, that nothing contained in this Paragraph D shall be deemed to require the paving of any off-street parking space or driveway thereto for any dwelling unit. Any proposed drainage plan must be approved by the Board of Public Works prior to the issuance of any Driveway Access Permit.

(3) All land which is located within the boundaries of St. Mary's River on the North, Clay Street on the East, Penn Central Railroad on the South, and Fairfield Avenue on the West, in the City of Fort Wayne, Indiana, which has been and/or hereafter is used for off-street parking, and all driveways thereto, must be paved or surfaced and drained as provided in the preceding paragraph.

(4) All land which is hereafter used and has been used continuously for off-street parking and for driveways thereto, on or prior to December 2, 1969, must be surfaced with compacted crushed stone of uniform size and texture of not less than three (3) inches depth and in a manner which prevents such material from eroding, washing or otherwise being deposited on public sidewalks and street right-of-ways. Any continuing violation of this paragraph for a period of ninety (90) days after notice of such violation has been mailed by the Board of Works to the Owner of the land as shown on the tax duplicates in the Office of the Assessor of Allen County, Indiana, shall constitute a nuisance in violation of this chapter, shall be unlawful, and such use shall be subject to all penalties provided in this chapter; provided however, that nothing contained in this paragraph shall be deemed to require the paving of any off-street parking space or driveway thereto for any dwelling unit.

(5) All land in or adjoining an R or B District which is hereafter placed in use for off-street parking, except for any dwelling unit, shall be landscaped to aid in controlling the circulation of cars and pedestrians, to identify entrances and exits, and to improve the appearance of such use to maintain property values in the area and the following specific landscaping requirements must be satisfied:

(a) All open, off-street parking areas shall provide and maintain shade trees of a variety hardy to this region and totaling not less than 1% of the surfaced parking area. The minimum size tree island shall not be less than 70 square feet.

(b) Screening, consisting of a hedge, wall, or uniformly painted fence to provide a visual separator and physical barrier with maximum height of four feet shall be provided between said off-street parking and all R and B areas. These lots adjacent to a residential district shall provide screening between such land and the R District not less than six (6) feet in height.

(c) The total landscaped (green) area for any parking lot shall not be less than 10% of the gross area developed. The owner shall be responsible for the perpetual maintenance of the green space.

(6) Set-Backs - All land used for off-street parking in districts for which front yards are required by this chapter shall be located not less than five (5) feet from any property line abutting on a street; provided, however, that nothing contained in this Paragraph D shall be deemed to apply to any off-street parking space or driveway thereto for any single family dwelling unit. All parking lots shall have curbings around perimeters at a sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys or sidewalks. Curbings are also to be used to facilitate drainage and insure no discharge of water onto abutting properties.

(7) Lighting - Any light used to illuminate land used for off-street parking or driveways thereto shall be installed on private property and maintained so as to reflect the light away from any adjoining R District. It shall also be designed to avoid glare into street right-of-way.

(8) Permit - Any person constructing a parking lot pursuant to the provisions herein after the effective date of this ordinance shall obtain an improvement location permit. Said permit shall be issued after applicant has submitted evidence that his proposed off-street parking area improvement shall comply with provisions herein.

E. Permanency of Spaces Provided.

Any parking or loading space established prior to the effective date of this chapter and which is used or intended to be used in connection with any main building, structure or use, or any spaces designed and intended to comply with the requirements of this chapter for any such main buildings or structure erected after such effective date, shall hereafter be maintained so long as said building or structure remains, unless the owner provides and maintains in another location an equivalent number of required spaces which conform to the provisions of this chapter.

F. Front and Side Yards in All Residential Districts.

No required front yard, and no required side yard adjacent to a street, may be used to satisfy the off-street parking or loading requirements of this Section 8.

G. No trailer, mobile, mobile unit, or other temporary facility, shall be used for school, church or other non-residential use for a period longer than two (2) years for school use and one (1) year for church use unless the period is extended by variance duly granted by the Board of Zoning Appeals provided that in no event shall such temporary facilities be permitted where permanent use for the purpose is not permitted or authorized; provided further that such temporary facilities used in connection with a construction project may be used in any district where the use of the completed structure would be permitted as long as the construction is proceeding with reasonable diligence.

ARTICLE III. DISTRICTS

Section 9. ESTABLISHMENT AND DESIGNATION. For the purpose of this chapter the City is hereby divided and classified into eighteen (18) districts designated as follows:

Designation, R1, One Family Residence District
 Designation, R2, Two Family Residence District
 Designation, R3, Multiple Family Residence District
 Designation, RA, Residence District A
 Designation, RB, Residence District B
 Designation, B1A, Limited Business District
 Designation, B1B, Limited Business District
 Designation, B2, Regional Shopping Center District
 Designation, B2A, Neighborhood Shopping Center District
 Designation, B3A, General Business District A
 Designation, B3B, General Business District B
 Designation B4, Roadside Business District
 Designation, M1, Light Industrial District
 Designation, M2, General Industrial District
 Designation, M3, Heavy Industrial District
 Designation, IA, Interchange Access Center District
 Designation, MHP, Mobile Home Park
 Historical District

The above districts and their respective boundaries are hereby established as shown by the symbols on the map entitled, "City of Fort Wayne Zoning Map", dated September 16, 1969, which is on file in the Office of the Plan Commission, which map and all explanatory matter thereon by reference is incorporated herein and made a part hereof.

Lands which may hereafter be included or re-included in the territorial jurisdiction of the City Plan Commission shall automatically become classified in the following corresponding City zoning districts when such lands at the time of their inclusion in the jurisdiction of the City Plan Commission are classified under the zoning laws of the County, as indicated below, subject to amendment as provided in this chapter:

COUNTY DISTRICT DESIGNATION	CORRESPONDING CITY DISTRICT DESIGNATION
A1 Agricultural	RA Residence, District A
A2 Flood Plain	RB Residence, District B
A3 Estate	RA Residence, District A
RS1 Suburban Residential	R1 Single Family Residence Dist.
RS2 Multiple Family	R3 Multiple Family Residence Dist.
MH Mobile Homes	MHP Mobile Home Parks
CLA Professional Services	B1A Limited Business District A
C1 Limited Commercial	B1B Limited Business District B
C2 Planned Shopping	B2 Shopping Center District
C3 General Commercial	B3B General Business District B
C4 Roadside Commercial	B4 Roadside Business
C5 Commercial Interchange	IA Interchange Access Ctr. District
I-1 Light Industrial	M1 Light Industrial District
I-2 General Industrial	M2 General Industrial District
I-3 Heavy Industrial	M3 Heavy Industrial District
I-4 Planned Industrial	M2 General Industrial District
RSP Planned Residential	R1, R2, R3, RA, RB, B1A, B1B, B4, M1 - With previously approved Development Plans as provided for in N of Section 15.
C-6 Drive-In Facilities	B4 Roadside Business District
A-E Exclusive Agriculture	RA Residence, District A

1 Section 10. BOUNDARIES.

2 Unless otherwise indicated, the district boundary lines are land lines, the
3 center lines of streets, alleys, or railroad rights-of-way or such lines ex-
4 tended.

5 Where the street layout actually on the ground varies from the layout as shown
6 on the zoning map, such shall be interpreted according to the reasonable intent
7 of this chapter.

8 ARTICLE IV. DISTRICT REGULATIONS

9 Section 11. CONFORMITY WITH CHAPTER REQUIRED. No building or
10 structure shall hereafter be constructed and no building, structure or land
11 shall hereafter be used except in conformity with the provisions of this
12 chapter as permitted.

13 Section 12. CONTINGENT USES - ALL DISTRICTS. The contingent uses
14 hereinafter set forth shall be permitted by the Board, after public hearing,
15 in any district where such uses are essential or desirable to the public
16 convenience or welfare, provided, however, no permit for a contingent use
17 shall be granted if the Board shall find that such use is in conflict with
18 any plan duly adopted by ordinance of the Common Council. In granting such
19 permit the Board may impose appropriate conditions regarding the location,
20 character and other features of the proposed building, structure or use as
21 are reasonably required by the purposes of this chapter.

22 A. Such Permitted Contingent Uses are Identified as Follows:

- 23 (1) Airport or Heliport
- 24 (2) Cemetery
- 25 (3) Governmental installation not otherwise permitted.
- 26 (4) Hospital, Sanatorium, Sanatorium, Preventorium or
27 Asylum not otherwise specified in this chapter.
- 28 (5) Medical Health Center or Clinic
- 29 (6) Public Utility facilities such as radio and television
30 transmitter stations and towers; petroleum and natural
31 gas transmission lines, pumping stations and facilities,
32 electric substations and telephone exchanges where not
33 otherwise permitted by this chapter; railroad lines;
34 classification yards and terminals; and other similar
35 uses of a public utility or public service nature;
 including structures and appurtenances for their enclosure,
 maintenance and operation.
- (7) Educational Institution
- (8) Private School
- (9) Golf Course
- (10) A not-for-profit neighborhood educational, recreational or
 cultural establishment or community association, including
 but not limited to: a branch YMCA, YWCA, CYO or Boy Scout
 building provided, however, that the dispensing of
 alcoholic beverages or any business activity on said
 premises shall not be permitted; and provided further that
 no permit shall be issued for such use unless the Board
 shall first find that it will constitute a neighborhood
 activity center of a nature compatible with the character

of the neighborhood in which it is to be located.

(11) Public Parking Area, when used as an accessory use to a conforming use and within 300 feet of the main use or structure on the same, adjacent or detached lot, or when used as an accessory use to a nonconforming use lawfully existing on the effective date of this chapter and on the same lot or land contiguous thereto; subject to the regulations of Section 8; provided, however, that in no event shall the public parking area referred to in this subsection be construed as to include a structure as defined in paragraph 45 of Section 3 of this chapter. No permit under this subsection shall be required for parking areas permitted under Section 14.

(12) Camp Grounds and Trailer Parks as defined in Section 3, in public parks, without action of the Board of Zoning Appeals, but subject to the standards and regulations of the Park Board or other public agency having jurisdiction over the public park.

Section 13. SPECIAL USES - SPECIFIED DISTRICTS.

A. Special uses may be permitted by the Board after public hearing only in the specified districts indicated below. No permit for a special use shall be granted unless the Board shall have first found that the public convenience and welfare will be substantially served and that the proposed use will not be unduly detrimental to the surrounding area. In the exercise of its approval the Board may impose such conditions regarding the location, character and other features of the proposed building or structure or use as it may deem advisable in the furtherance of the purposes of this chapter.

B. In RA, RB, B3A, B3B, M1, M2 and M3 Districts, the Board may permit:

- (1) Penal or correctional institution or sanitarium, hospital or asylum for contagious, mental, drug or liquor addict cases.
- (2) Fairground
- (3) Transient amusement enterprise medicine show or circus, the chief activity of which is carried on for gain or profit.
- (4) Gun Club, Skeet Shoot or Target Range, provided that satisfactory evidence is presented to the Board that adequate precautions will be taken to safeguard the public from dangers of firearms used therein.
- (5) Animal Breeding and Raising for experimental laboratory or fur production purposes, and Animal Kennels, as distinguished from general livestock raising.
- (6) Sanitary Land Fill
- (7) Refuse Dump
- (8) Golf driving range, putting green, or miniature golf course.
- (9) Gravel, Rock, Stone or Sand Extraction, Crushing, Washing and Sorting - subject to the following requirements:

(a) Excavation:

(1) Final slopes of sand or gravel shall not be steeper than one foot horizontal to one foot vertical.

(2) Temporary operating cut slopes of sand and gravel steeper than one foot horizontal to one foot vertical shall in no case be brought closer to an exterior property line, right-of-way line of any street, road, way or alley, as existing or as proposed in the Comprehensive Development Plan than 50 feet where a sight screen is provided or 75 feet in the case where no provision is made for sight screening.

(3) Explosives shall be used only between sun-up and sun-down except in the case of an emergency.

(4) Final sloping of quarry or sand and gravel pit excavations shall be accomplished within the time specified in the quarry or sand and gravel pit permit or as extended by the Board of Zoning Appeals.

(b) Drainage of Premises:

The finished excavation shall be graded where possible in such a manner as to prevent the stagnation of storm waters or natural seepage.

(c) Refilling, Erosion Control and Screen Planting:

(1) Dikes or other barriers and drainage structures shall be provided to prevent silting of natural drainage channels or storm drains in the area surrounding the quarry or sand and gravel pit.

(2) All final cut slopes shall be treated to prevent erosion; topsoil shall be replaced on such slopes to support vegetation; ground cover shall be planted within twelve months after a cut slope is excavated to its final position; and such ground cover shall be maintained for a period of time sufficient to provide vegetation or a density that will prevent erosion.

(3) Where required, suitable plant material shall be placed and maintained to screen out slopes from public view.

(4) Whenever quarrying or sand and gravel pit operations on any property have been completely exhausted, all buildings, structures or equipment not authorized under the permitted uses for the district in which the property is located, shall be entirely removed from such property within one year after such completion.

(d) Maintenance and Operation:

(1) Quarries and sand and gravel pits shall be maintained at all times in a neat and orderly manner.

(2) Quarries and sand and gravel pits shall be operated so as to keep dust and noise to a minimum and access roads shall be maintained as dust-free surfaces from the public street to within one hundred feet of the loading point within the quarry or sand and gravel pit.

(3) Vehicles carrying materials from quarries or sand and gravel pits shall be loaded in such manner as to prevent spilling rock, gravel, sand or other materials of a mineral nature while in transit upon roads and highways.

(4) Quarry or sand and gravel pit excavations which may penetrate near or into a usable water bearing stratum shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to pollution by operations or the excavation of a sand and gravel pit or subsequent to the abandonment of stone quarry or sand and gravel pit.

(e) Continuance of Existing Quarry or Sand and Gravel Pit.

A quarry or sand and gravel pit operation lawfully existing upon the effective date of this amendment to this chapter may be continued so long as such continued use complies with the requirements of Subsections (a), (b), (c) and (d) of Section 1 of this amendment to this chapter.

C. In B4, M1 and M2 Districts, the Board may permit:

(1) Custom butchering, meat cutting and canning.

(2) Livestock sales or auction, stock pens, except that such use shall not be permitted within 300 feet of an R District.

(3) Trailer Park, as defined in Section 3, provided that the following standards are met:

(a) No trailer park shall be located except with direct access to a primary, secondary street, major highway or expressway as shown on the Thoroughfare Plan for the City of Fort Wayne. In no event shall access to a trailer park be gained through a residential area or utilizing a residential type street. Also, the trailer park property shall have adequate frontage along the access road to provide for proper and safe ingress and egress to the trailer park area, considering the fact that an auto pulling a trailer is much longer and would require more maneuvering space than would normal automobile traffic.

(b) All sanitary sewage facilities, including connections provided for trailer space occupancy, shall meet the minimum standards of the City of Fort Wayne Board of Health, Allen County Board of Health, or the State of Indiana Board of Public Health depending upon the agency having jurisdiction. In the event there is a duplication of any laws of any of these agencies, the agency with the most restrictive requirements shall prevail.

(c) No trailer space in a trailer park shall be smaller than 30 feet in width and shall contain a minimum of 1,500 square feet of area for each trailer, exclusive of any street and/or driveway areas.

D. In considering a petition for any permitted Special Use, the Board shall give due regard to the following factors as they will apply to the particular situation:

1 (1) The location and size of the use; the nature and intensity
2 of the operations involved in or conducted in connection with it;
3 its site layout, including parking space requirements; and its
4 relation to streets giving access to it so that vehicular traffic
5 to and from the use will not create undue hazards to the normal
6 traffic of the vicinity, taking into account among other things,
7 vehicular turning movement in relation to routes of traffic flow,
8 relation to street intersections, sight distances, and relation to
9 pedestrian traffic.

6 (2) The nature, location, size, and site layout of the use so
7 that it will be harmonious to the district in which it is situated.

8 E. (1) All special uses which existed upon the effective date of
9 this chapter and which are located in a district which would permit
10 such use in accordance with the provisions of this section, shall
11 be regarded as conforming uses and may be continued, except that
12 major changes in layout, expansion or extension to such uses shall
13 be subject to Board review and approval as required for Special
14 Uses.

12 (2) All special uses hereafter authorized by the Board in
13 accordance with the provisions of this section, shall be regarded
14 as conforming uses and may be continued, except that major changes
15 in layout, expansion or extension to such use shall be subject to
16 Board review and approval as required for Special Uses.

17 F. In R3 Districts the Board may permit a branch bank, branch post
18 office, currency exchange, branch library, loan office, professional or commer-
19 cial office, public utility customer office, real estate office, studio or
20 savings and loan association.

21 G. In R1, R2, R3, RA and RB Districts the Board may permit insur-
22 ance and similar offices which satisfy all the requirements for "Home Occupa-
23 tion", as such term is defined in this chapter, for a period not to exceed one
24 (1) year from the date of the special use Improvement Location Permit issued by
25 authority of the Board. The Special Use Improvement Location Permit may be
26 reissued on each subsequent annual expiration date for an additional year if
27 the Board finds that the public convenience and welfare will be substantially
28 served and that the proposed renewal will not be unduly detrimental to the
29 surrounding area. A public hearing will not be required for renewal permits.

Section 14. REGULATED USES. SPECIFIED DISTRICTS.

A. Regulated uses may be permitted by the Board after public hearing only in the specified districts indicated below. No permit for a regulated use shall be granted unless the Board shall have first found that the public convenience and welfare will be substantially served in that the proposed use will not be unduly detrimental to the surrounding area. No permit for a regulated use shall be granted unless the Board shall have first found that all applicable regulations of this ordinance have been met.

B. In M2 and M3 Districts the Board may permit regulated uses.

C. For the purpose of this section, the following terms shall have the following meanings:

(1) Adult Book Store - An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below), or an establishment with a segment of section devoted to the sale or display of such material.

(2) Adult Motion Picture Theatre - An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Area", (as defined below) for observation by patrons therein.

(3) Adult Mini Motion Picture Theatre - An enclosed building with a seating capacity for less than 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) for observation by patrons therein.

(4) Adult Cabaret - Any place wherein food and/or any type of beverage is sold or given away on the premises and which features Topless Dancers, Go-Go Dancers, Exotic Dancers, Strippers, male or female impersonators, or similar entertainment.

(5) Adult Establishments - An establishment used as a place for displaying or exhibiting "Specified Sexual Activity" or "Specified Anatomical Areas", (as defined below) for remuneration.

(6) Specified Sexual Activity:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(7) Specified Anatomical Areas:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

1 D. One Thousand Foot Locational Provision

2 (1) None of the following uses may be located within one
3 thousand (1000) feet of each other:

4 Adult Book Store
5 Adult Motion Picture Theatre
6 Adult Mini Motion Picture Theatre
7 Adult Cabaret
8 Adult Establishment
9 Licensed Massage Parlors or Establishments
10 Pawn Shops
11 Pool or Billiard Halls
12 Public Lodging Houses
13 Secondhand Stores
14 Shoe Repair or Shoeshine Parlors

15 (2) The Board of Zoning Appeals may waive this locational
16 provision for Adult Bookstores, Adult Motion Picture Theatres,
17 Adult Mini Motion Picture Theatres, Adult Cabarets, Adult Estab-
18 lishment, Licensed Massage Parlors or Establishments, Pawn Shops,
19 Pool or Billiard Halls, Public Lodging Houses, Secondhand Stores
20 and Shoe Repair or Shoeshine Parlors if the following finds are
21 made:

- 22 (a) That the proposed use will not be contrary to the
23 public interest or injurious to nearby properties,
24 and that the spirit and intent of this ordinance
25 will be observed.
- 26 (b) That the proposed use will not enlarge or encourage
27 the development of a "skid-row" area.
- 28 (c) That the establishment of an additional regulated
29 use will not be contrary to any program of urban
30 conservation. Nor will it interfere with any
31 program of urban renewal.
- 32 (d) That all applicable regulations of this ordinance
33 will be observed.

34 E. Five Hundred Foot Locational Provision

35 (1) It shall be unlawful to hereafter establish any Adult
36 Bookstore, Adult Motion Picture Theatre, Adult Mini Motion Picture
37 Theatre, Adult Cabaret, Adult Establishment, or Massage Parlor
38 within 500 feet of building containing a residential dwelling or
39 rooming unit or within 500 feet of a church or educational estab-
40 lishment.

41 (2) The Board of Zoning Appeals may waive this prohibition
42 for Adult Motion Picture Theatres, Adult Mini Motion Picture Theatre,
43 Adult Cabaret, Adult Establishment, and Licensed Massage Parlors
44 or Establishments, and Adult Bookstores if the person applying for
45 the waiver shall file with the Board of Zoning Appeals a petition
46 which indicates approval of the proposed regulated use by 51 per-
47 cent of the persons owning property within a radius of 500 feet of
48 the location of the proposed use. The petitioner shall attempt to
49 contact all eligible locations within this radius and must maintain
50 a list of all addresses at which no contact was made.

51 (3) The Board of Zoning Appeals shall adopt rules and
52 regulations governing the procedure for securing the petition of
53 consent provided for in this section of the ordinance. The rules
54 shall provide that the circulator of the petition requesting a
55

1 waiver shall subscribe to an affidavit attesting to the fact that
2 the petition was circulated in accordance with the rules of the
3 Board of Zoning Appeals and that the circulator personally
4 witnessed the signatures on the petition and that the same were
5 affixed to the petition by the person whose name appeared thereon.

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(4) The Board of Zoning Appeals shall not consider this
waiver until the above described petition shall have been filed
and verified.

1 Section 15. PERMITTED USES - SPECIFIED DISTRICTS. The following
2 uses shall be permitted in the district hereinafter specified:

3 A. "R1" District - One Family Residence

- 4 (1) One Family Dwelling
5 (2) Public Park or Recreation Area
6 (3) Church, Public or Parochial Primary or Secondary School,
7 including attached or free standing announcement or
8 bulletin board, not exceeding 24 square feet in area.
9 (4) Home Occupation
10 (5) Limited Group Home, if its location is first approved by
11 the Board of Zoning Appeals following a public hearing.
12 (6) Accessory Building and Use.
13 (7) Name Plate or Sign - One per dwelling unit not exceeding
14 1 square foot in area; unlighted signs not exceeding
15 12 square feet in area pertaining to sale or rental of
16 property on which located.

17 B. "R2" District - Two Family Residence

- 18 (1) All Uses Permitted in the "R1" District, plus:
19 (2) Two Family Dwelling
20 (3) Day Nursery
21 (4) Limited Group Home, provided that not more than two group
22 homes or halfway houses in any combination as outlined by
23 definitions 26, 30, and 36 shall be located in any block
24 group and that no more than one group home or halfway
25 house be located on a block face without a prior approval
26 of the Board of Zoning Appeals (see definitions for block
27 groups and block faces). In no event shall any of the
28 above uses be continuous. Certificate of Occupancy re-
29 quired in all cases.
30 (5) Extended Group Homes, if its location is first approved by
31 the Board of Zoning Appeals following a public hearing.
32 (6) Half-Way House, if its location is first approved by the
33 Board of Zoning Appeals following a public hearing.

34 C. "R3" District - Multiple Family Residence

- 35 (1) All uses permitted in the "R2" District, plus:
36 (2) Multiple Family Residence
37 (3) Apartment Hotel
38 (4) Day Nursery, Tourist Home, Lodging Home
39 (5) Nursing Home or Rest Home
40 (6) Non-Profit Private Club
41 (7) Mortuary

- (8) Extended Group Home, provided that not more than two group homes or halfway houses in any combination as outlined by definitions 26, 30, and 36 shall be located in any block group and that not more than one group home or halfway house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.
- (9) Half-Way House, provided that not more than two group homes or half-way houses in any combination as outlined by definitions 26, 30, and 36 shall be located in any block group and that not more than one group home or halfway house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.
- (10) Office or Studio, if its location is first approved by the Board of Zoning Appeals following a public hearing.
- (11) Accessory Building and Use
- D. "RA" District and "RB" District - Residence (G-97-70, 8/25/70)
- (1) Dwelling
- (2) Public Park and Recreation Area
- (3) Church, Public or Parochial Primary or Secondary School, including attached or free standing bulletin board not exceeding 24 square feet in area.
- (4) Agriculture, Nursery or Truck Garden (Open or Under Glass)
- (5) Home Occupation
- (6) Tourist Home or Lodging Home, if its location is first approved by the Board of Zoning Appeals following a public hearing.
- (7) Nursing Home or Rest Home, if its location is first approved by the Board of Zoning Appeals following a public hearing.
- (8) Accessory Building and Use, including roadside stands for the retail sale of commodities produced on the premises only.
- (9) Name plate or Sign, one per dwelling not exceeding 1 square foot in area; unlighted signs not exceeding 12 square feet in area pertaining to the sale or rental of property on which it is located.
- (10) Multiple Family Dwellings in "RA" or "RB" District - If the Commission shall find that substantial property rights in the area surrounding the tract may be directly affected by the development, a public hearing shall be held by the Commission before it approves a preliminary development plan; otherwise, a public hearing shall not be required. Notice of any such public hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or amendments thereto under the Planning Acts of the State of Indiana.

- (8) Extended Group Home, provided that not more than two group homes or half-way houses in any combination as outlined by definitions 61, 62, and 63 shall be located in any block group and that not more than one group home or half-way house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.
- (9) Half-Way House, provided that not more than two group homes or half-way houses in any combination as outlined by definitions 61, 62, and 63 shall be located in any block group and that not more than one group home or half-way house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy required in all cases.
- (10) Office or Studio, if its location is first approved by the Board of Zoning Appeals following a public hearing.
- (11) Accessory Building and Use
- D. "RA" District and "RB" District - Residence (G-97-70, 8/25/70)
- (1) Dwelling
- (2) Public Park and Recreation Area
- (3) Church, Public or Parochial Primary or Secondary School, including attached or free standing bulletin board not exceeding 24 square feet in area.
- (4) Agriculture, Nursery or Truck Garden (Open or Under Glass)
- (5) Home Occupation
- (6) Tourist Home or Lodging Home, if its location is first approved by the Board of Zoning Appeals following a public hearing.
- (7) Nursing Home or Rest Home, if its location is first approved by the Board of Zoning Appeals following a public hearing.
- (8) Accessory Building and Use, including roadside stands for the retail sale of commodities produced on the premises only.
- (9) Name plate or Sign, one per dwelling not exceeding 1 square foot in area; unlighted signs not exceeding 12 square feet in area pertaining to the sale or rental of property on which it is located.
- (10) Multiple Family Dwellings in "RA" or "RB" District - If the Commission shall find that substantial property rights in the area surrounding the tract may be directly affected by the development, a public hearing shall be held by the Commission before it approves a preliminary development plan; otherwise, a public hearing shall not be required. Notice of any such public hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or amendments thereto under the Planning Acts of the State of Indiana.

1 (A) The development plan shall meet the location criteria:

- 2 1. The location and size of the development would be
3 compatible with the surrounding area and would not
4 conflict with any components of the Master Plan
5 of the City of Fort Wayne.
- 6 2. The location of the development would provide
7 direct access to a secondary or primary street
8 or sufficient right-of-way and improvement width,
9 or a residential street that meets the minimum
10 requirements of both right-of-way and improvement
11 of a secondary street unless waived by the Plan
12 Commission.
- 13 3. Written approval is received from the agency
14 having jurisdiction that the development would
15 not impose hardships on the following facilities:
- 16 (a) Water
 - 17 (b) Sewer
 - 18 (c) Streets
 - 19 (d) Schools
 - 20 (e) Parks & Playgrounds
 - 21 (f) Fire Protection
 - 22 (g) Storm Water Drainage
- 23 4. The Commission shall determine which street shall
24 be dedicated and which passageways are to be
25 private streets or parking lots.
- 26 5. If the Commission is of the opinion that the
27 location of the multiple family or multiple
28 group development would conflict with the Master
29 Plan for the City of Fort Wayne or would be
30 detrimental to the growth of existing uses in
31 the surrounding area, the Commission may dis-
32 approve said multiple development proposal,
33 providing, however, such approval by the Commis-
34 sion will not be unreasonably withheld.

35 (B) The preliminary development plan shall meet the
following standards and include the following
information and supporting data:

1. No less than 2,500 square feet of land is devoted
to any efficiency, one or two bedroom living unit.
In determining density no part of any existing
street right-of-way or proposed right-of-way
as shown in the Thoroughfare Plan shall be
included.
2. Living units having three (3) or more bedrooms
shall have a minimum 4,000 square feet of land
per unit. In determining density no part of any
existing street right-of-way or proposed right-
of-way as shown in the Thoroughfare Plan shall
be included.
3. The minimum off-street parking requirement shall
be one and one-half (1 1/2) spaces per unit and
must be in an acceptable location to the building
served. All parking spaces on public or private
streets shall be parallel to the street.

4. All dedicated streets shall conform to the minimum requirements of the Subdivision Control Ordinance of the City of Fort Wayne and provide alignment with existing dedicated streets.
 5. The maximum building coverage does not exceed thirty (30) percent of the tract, exclusive of streets.
 6. Recreation or laundry facilities be located in a manner that would serve only the proposed multiple family complex. The use of these facilities by persons living outside this complex would be a violation of this ordinance.
 7. In a multiple family or multiple group development, no building shall be closer than twenty-five (25) feet to an adjacent property line in the case of a one-story building nor closer than thirty (30) feet in the case of a two-story building. The Plan Commission may waive front, side or rear yard requirements if such waiver would compliment the plan.
 8. Date, Scale 1" = 50', North Point, Name of Designer or Engineer and name and address of developer of tract.
 9. Accurate boundaries of proposed development and accurate location of abutting streets and structures.
 10. Location, size, use and capacity of all structures existing or to be placed on the tract.
 11. Proposed point of ingress and egress for the planned development with proposed parking areas.
 12. Existing and proposed rights-of-way of existing or proposed streets, road and highways.
 13. Proposed site screening and landscaping of development. A minimum of forty (40) percent of all open space, exclusive of streets, shall be devoted to landscaping, unless waived by the Commission.
 14. Proposals for sewers, water, gas, electricity and storm drainage the necessary easements for these utilities.
 15. Proposals for control of storm water runoff.
 16. A fifty dollar (50) application fee must be paid to the City of Fort Wayne, at the City Plan Commission Office, for the processing of this development plan.
 17. The Commission shall determine the location and type of all additional sidewalks.
- (C) If the Commission approves the preliminary development plan, the final development plan shall be submitted to the Commission twenty-one (21) days prior to their scheduled meeting and include the original tracing, five (5) prints and the following additional information and supporting data:

1. Five (5) sets of improvement plans to be distributed to the Street Engineer, Water Engineer and Sewer Engineer and drawn in compliance with the Fort Wayne Board of Public Works Specifications.
2. Existing contours at two (2) foot intervals with spot elevations of finished grade and directions of storm water runoff.
3. To dedicate the streets and easements within this development plan, the following should be added:
 - (a) Name of Plat
 - (b) Street name assigned to streets to be dedicated and defining of streets or drives to remain private.
 - (c) Certification by land surveyor registered by the State of Indiana.
 - (d) Lot lines and dimensions.
 - (e) Execution and notary by owners of land.
 - (f) Instrument of approval for signatures of governing bodies.
 - (g) Private restrictive covenants.
 - (h) Statement dedicating streets and easements to the City of Fort Wayne.
4. Issuance of Permit:

The Zoning Enforcement Officer shall issue an Improvement Location Permit for Multiple Family or Multiple Group Development as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Plan Commission.
5. Construction of Improvement under permit:

Revocation of Permit:

Any person to whom is issued an Improvement Location Permit pursuant to Sub-section (4) above, who fails to commence construction of the Multiple Family or Multiple Group Development within twenty-four (24) months after such permit is issued or who fails to carry to completion thirty (30) percent of the total buildings as authorized by said permit within three (3) years after said permit is issued, or within one (1) year after such construction is begun, whichever is later, shall be subject to the following penalties:

 - (a) If after public hearing the Commission finds that no substantial work has been commenced on said Multiple Family or Multiple Group Development according to the development plan as finally approved by the Commission as called for in the Improvement Location Permit within three (3) years after said permit is granted, it shall be revoked by said Commission.
 - (b) If the plan is not completed as required by this Sub-section, failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Chapter 33, Section 25 A.

- 1 (c) The Commission may, after investigation, seek
2 to enjoin the operation of said Multiple Family
3 or Multiple Group Development if a substantial
4 compliance with said plan has not been achieved
5 in the time limit as herein set forth.

6 6. Permits:

- 7 (a) Not more than one Improvement Location Permit
8 for each Multiple Family or Multiple Group
9 Development district may be issued and outstanding
10 at any one time.

11 (b) Amendments to Development Plan:

12 (i) The holder of a Multiple Family or Multiple
13 Group Development district Improvement Location
14 Permit may apply to the Commission at any time
15 for an alteration, change, amendment or extension
16 of the development plan upon which said permit
17 is based.

18 (ii) If an application shows that additional
19 land is to be improved or used in connection
20 with such Multiple Family or Multiple Group
21 Development permit, then the Commission shall
22 proceed as in the case of original application
23 for a Multiple Family or Multiple Group Development
24 Improvement Location Permit.

25 (iii) If no additional land is embraced in the
26 application for alteration, change, amendment
27 or extension, then the Commission shall be
28 empowered to pass on such matters without
29 requiring a public hearing thereon.

30 (iv) In the event the Commission shall approve
31 and order such development plan changed, altered
32 amended or extended, it shall so notify the
33 Zoning Enforcement Officer, and he shall issue
34 an amended Improvement Location Permit accordingly.

35 E. "B1" District - Limited Business

The "B1" District classification is further divided into
"BLA" District and "BLB" District as follows, both of which
are included where reference is made to a "B1" District. All
areas designated as "B1" Districts on the Zoning Map shall be
subject to the provisions as to "BLB" Districts until the
Zoning Map is amended to designate any area as "BLA".

"BLA" District

- (1) All uses permitted in an "R3" District or which the
Board of Zoning Appeals may permit as special uses
in an "R3" District:
- (2) Agriculture
- (3) Public Parking Area
- (4) Taxi Station
- (5) Travel Bureau

- 1 (6) Hat Cleaning and Repair Shop
- 2 (7) Self-Service Laundry or Agency
- 3 (8) Shoe Repair Shop or Shoe Shining
- 4 (9) Tailor
- 5 (10) Phonograph and Record Shop
- 6 (11) Photographic Supply Shop or Studio
- 7 (12) Bakery Goods Store
- 8 (13) Confectionary, Ice Cream, or Candy Store
- 9 (14) Delicatessen
- 10 (15) Fruit or Vegetable Store
- 11 (16) Grocery Store
- 12 (17) Meat Market
- 13 (18) Super Market
- 14 (19) Tea Room
- 15 (20) Beauty Parlor
- 16 (21) Barber Shop
- 17 (22) Cosmetics Store
- 18 (23) Book Store
- 19 (24) Cigar Store
- 20 (25) Drug Store
- 21 (26) Dry Goods Store
- 22 (27) Gift Shop
- 23 (28) Hardware Store
- 24 (29) Garden Equipment Supply Store
- 25 (30) Haberdashery
- 26 (31) Hobby Shop
- 27 (32) Jewelry Store, including Clock or Watch Repair
- 28 (33) Leather Goods or Luggage Store
- 29 (34) Millinery Shop
- 30 (35) Notion Store
- 31 (36) Optician or Optometrist Office
- 32 (37) Paint Store
- 33 (38) Ready-To-Wear Shop

(39) Retail Florist, including Greenhouse of less than 1,000 square feet of ground floor area.

(40) Shoe Store

(41) Sporting Goods Store

(42) Stationery or News Dealer Store

(43) Toy Shop

(44) Variety Store

(45) Accessory Building and Use

"B1B" District

(1) All uses permitted in an "B1A" District, plus:

(2) Service Station

(3) Tire and Accessory Store

(4) Automobile Washing Station, with provision for off-street parking for sixty (60) or more vehicles.

(5) Letter press or Offset or Lithographic Printing Plant

(6) Dressmaking Shop

(7) Clothes Cleaning Agency, Pressing Establishment

(8) Costume Rental

(9) Diaper Service Station

(10) Electrical Appliance or Radio Store

(11) Household Appliance Store

(12) Caterer

(13) Package Liquor Store

(14) Restaurant, including Tavern and Bar, but not including a drive-in restaurant.

(15) Orthopedic or Medical Appliance Store

(16) Reducing Salon

(17) Bird Store or Pet Shop

(18) Department Store

(19) Furrier, including cold storage of garments

(20) Interior Decorating or Furniture Store

(21) Music Conservatory School or Instrument Store

(22) Bowling Alley

(23) Billiard and Pool Hall, as Regulated by Section 14.

- (24) Indoor Theatre, but not including an Adult Motion Picture Theatre or Adult Mini Motion Picture Theatre as defined in Section 14.
- (25) Hotel, Motel, Private Club or Lodge.
- (26) Advertising Sign or Billboard, provided that when the same is located within fifty (50) feet of an R District boundary line it shall be affixed to or be a part of a building and not extend over any street line nor project above the roof line.
- (27) Electrical Substations and Telephone Exchanges
- (28) Accessory Building and Use
- (29) Animal Hospital or Kennel catering to household pets, as distinguished from agricultural animals, provided all animal runs are located within an enclosed building, and provided further that all noises and odors be confined to the interior of the building or buildings, and provided further that same not be operated as to constitute a nuisance in the neighborhood.

F. "B2" - "B2A", Regional and Neighborhood Shopping Centers

(1) All "B1" uses specifically listed in Section 14E for "B2" Centers; all of said uses except "B1B" uses (4) (5) (24) (25) and (26) for "B2A" Centers; provided, however, that no taverns, bars or agriculture shall be permitted in either a "B2" or a "B2A" Center; subject to compliance with the following requirements:

- (a) The tract involved shall be of an area of not less than ten (10) acres for a "B2" Center, and shall not be less than three (3) acres nor more than ten (10) acres for a "B2A" Center, and lie wholly or partially within 1,400 feet of a point represented by a "B2" or "B2A" symbol on the Zoning Map.
- (b) The owner or owners of such tract of land shall have prepared a preliminary development plan for the entire such tract.
- (c) Such preliminary development plan shall have received the approval of the Commission.
- (2) Plan Commission Procedure:
- (a) An applicant for a Shopping Center Permit shall apply therefor to the Commission upon forms to be prescribed by the Commission. Such application shall be filed with the Land Use Administrator and transmitted by him to the Commission. Such application shall be accompanied by a preliminary development plan for the entire tract described in said petition, together with the supporting data therefor.
- (b) Upon receipt of such application and preliminary development plan, the Commission shall review the same and set the same for public hearing. Notice of the hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or Amendments thereto under the planning acts of the State of Indiana.

(c) The Commission shall consider such objections and shall review the proposed development plan and the supporting data from the basis of the requirements of this chapter. Thereafter, the Commission shall take action as follows:

(i) If it shall find that such preliminary plans meet the requirements of this chapter, it shall approve the same and so notify the applicant. The applicant shall within 180 days submit to the Commission his final plan which shall be amended, approved or disapproved by the Commission within 60 days of its submission.

(ii) If it finds that upon said plan being amended, altered and changed as specified by the Commission, it will meet the requirements of this Chapter, it shall so notify the applicant, and thereupon the applicant shall prepare and file with the Commission another preliminary development plan and supporting data incorporating such specified changes. Upon the filing of the amended development plan, complying with the required amendments of the Commission shall approve the same and so notify the Zoning Enforcement Officer.

(iii) If it shall find that such plan does not comply with the requirements of this Chapter, and is not susceptible of alteration, change or amendment to meet such requirements, the Commission will disapprove same.

(iv) Within 180 days after approval of the preliminary plan, developer shall file final plan, which shall be approved by the Commission within 60 days after filing.

(v) If either a preliminary plan or final plan is not approved in 60 days after a written demand by developer to approve or disapprove same, it shall be deemed denied and an appeal lie by writ of certiorari.

(3) Development Plan Requirements:

In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall be governed by the following:

(a) The area to be occupied by the buildings in this district shall be twenty-five (25) percent or less of the net area of the land described in the petition. Also, ten (10) percent of the area dedicated to open space shall be set aside for planting of trees, ground cover, shrubs, and other landscaping material, which landscaping plan shall be explained in detail on said final plan.

(b) The location of the shopping center shall be on property which has an acceptable relationship to major thoroughfares. The plans for the proposed shopping center must possess a unified and organized arrangement of buildings and service facilities, which shall have a functional relationship to the property comprising the plan development and the uses of the property immediately adjacent to the proposed development. In exercising its jurisdiction, the Plan Commission shall have the authority to restrict the size, height, and relationship of one building to another within the center and architecture and actual design so long as these elements are directly related to the health, safety, welfare and morals of the community.

(c) (i) The preliminary plat shall indicate the legal description of land for which the permit is sought.

(ii) The general location, general size and estimated classification of land use of buildings and structures.

(iii) The general nature of the operations involved in and connected with such shopping center and general layout, including the location, approximate size, arrangement and capacity of all areas to be used for vehicular access, parking, loading, and unloading and the relationship to streets or an artery giving access to said center.

(iv) Indication of the present and proposed sewers, water service and storm drainage.

(v) Area to be planted, shrubbed or otherwise landscaped.

(4) Issuance of Permit:

The Zoning Enforcement Officer shall issue an improvement location permit for a shopping center as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Plan Commission.

(5) Construction of Improvement under permit:

Revocation of Permit:

Any person to whom is issued an Improvement Location Permit pursuant to Sub-section (4) above, who fails to commence construction of the shopping center within twenty-four (24) months after such permit is issued or who fails to carry to completion thirty (30) per cent of the total buildings as authorized by said permit within three (3) years after said permit is issued, or within one (1) year after such construction is begun, whichever is later, shall be subject to the following penalties:

(a) If after public hearing the Commission finds that no substantial work has been commenced on said shopping center according to the development plan as finally approved by the Commission as called for in the Improvement Location Permit within three (3) years after said permit is granted, it shall be revoked by said Commission.

(b) If the plan is not completed as required by this Sub-section, failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Chapter 33, Section 26A.

(c) The Commission may, after investigation, seek to enjoin the operation of said shopping center if a substantial compliance with said plan has not been achieved in the time limit as herein set forth.

(6) Permits:

(a) Not more than one Improvement Location Permit for each shopping center district may be issued and outstanding at any one time.

(b) Amendments to Development Plan:

(i) The holder of a shopping center district Improvement Location Permit may apply to the Commission at any time for an alteration, change, amendment or extension of the development plan upon which such permit is based.

(ii) If an application shows that additional land is to be improved or used in connection with such shopping center permit, then the Commission shall proceed as in the case of original application for a shopping center Improvement Location Permit.

(iii) If no additional land is embraced in the application for alteration, change, amendment or extension, then the Commission shall be empowered to pass on such matters without requiring a public hearing thereon.

(iv) In the event the Commission shall approve and order such development plan changed, altered, amended or extended, it shall so notify the Zoning Enforcement Officer, and he shall issue an amended Improvement Location Permit accordingly.

G. "B3A" and "B3B" District - General Business.

(1) All Uses Permitted in the "B1A" and "B1B" Districts, Plus

(2) Automotive Service, including but not limited to the following:

(a) Automobile Repair or Body Shop

(b) Automobile Showroom

(c) Battery Repair Shop

(d) Bicycle Repair Shop

(e) Motorcycle Shop

(f) Public Garage

(g) Trailer or Mobile Home Sales Lot

(h) Used Car Sales Lot

(3) General Retail Service, including but not limited to the following:

(a) Antique Shop

(b) Art Store or Art Studio

(c) Boat Showroom

(d) Coin or Philatelic Store

(e) House Accessory Display or Sales Store

(f) Pawnshop as regulated by Section 14

(g) Picture Framing Shop

(h) Retail Feed Store

(i) Second Hand Store or Rummage Shop as regulated by Section 14

- (j) Taxidermist
- (4) Recreational Enterprise, including but not limited to the following:
 - (a) Dance Hall or Studio
 - (b) Night Club, but not including an Adult Cabaret as defined in Section 14
 - (c) Shooting Gallery
 - (d) Penny Arcade
 - (e) Skating Rink
 - (f) Boxing Club or Gymnasium
- (5) Business or Trade School
- (6) Motor Bus or Railroad Passenger Station
- (7) Repair and Service Establishment, including but not limited to the following:
 - (a) Cabinet or Carpenter Shop
 - (b) Exterminating Shop
 - (c) Glass Cutting or Glazing Shop
 - (d) Laundry or Cleaning Plant
 - (e) Plumbing, Heating, Air Conditioning or Electrical Service Shop
 - (f) Sheet Metal Shop
 - (g) Sign Painting Shop
 - (h) Silver Plating or Repair Shop
 - (i) Upholstery Shop
 - (j) Window Blind Sales or Repair Shop
 - (k) Welding Shop
- (8) Rescue or Revival Mission
- (9) Accessory Building and Use
- H. "B4" District - Roadside Business
 - (1) All Uses Permitted in the "B3A" and "B3B" Districts, Plus:
 - (2) Drive-In Establishment, including but not limited to the following:
 - (a) Agricultural Implement Sales or Service Store
 - (b) Archery, Golf and Similar Range
 - (c) Auction Hall
 - (d) Drive-In Restaurant is defined as follows:

- (i) Any eating establishment with more than twenty-five percent (25%) of the gross floor area devoted to kitchen and cold storage space, or
- (ii) Any eating establishment the plan for which evidences space provision or appurtenances necessary for food or drink consumption outside the restaurant building either on the premises or on public ways, or
- (iii) Any eating establishment where more than ten percent (10%) of the food and drink sold is actually carried out of the restaurant building, except food and drink packaged for home consumption.
- (e) Drive-In Theatre
- (f) Fruit and Vegetable Stand
- (g) Ice Vending Station
- (h) Pottery or Souvenir Shop
- (i) Refreshment Stand
- (3) Amusement Enterprise, including but not limited to the following:
- (a) Children's Amusement Park
- (b) Miniature Golf Course
- (c) Miniature Railroad
- (d) Pony Riding Ring
- (e) Race Track
- (f) Riding Academy or Stable
- (g) Skating Rink
- (4) Other Services, including but not limited to the following:
- (a) Animal Hospital or Kennel utilizing enclosed or outside animal runs.
- (b) Bottled Gas Service
- (c) Camp Ground
- (d) Wholesale Florist, Greenhouse
- (e) Light Equipment Rental Service
- (f) Live Bait Stand
- (5) Accessory Building and Use
- I. "M1" District - Light Industrial
- (1) All Uses Permitted in the "B4" District, Plus:
- (2) Other Commercial Uses, including but not limited to the following:

- (a) Bottling Works
 - (b) Building Material Sales Yard (excluding concrete mixing)
 - (c) Chick Hatchery
 - (d) Road or Building Contractor's Equipment Storage Yard
 - (e) Sales and Rental of Road or Building Contractor's Equipment
 - (f) Public Utility Service Yard
 - (g) Electrical Receiving or Transforming Station
 - (h) Draying, Freighting or Trucking Yard or Terminal
 - (i) Feed or Grain Storage
 - (j) Fuel Yard; including bulk storage of petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional distribution purposes.
 - (k) Ice Manufacture or Cold Storage
 - (l) Experimental or Testing Laboratory
 - (m) Printing Plant, including letterpress or offset or lithographic
 - (n) Poultry Dressing
 - (o) Warehousing, Wholesale Merchandise
 - (p) Storage (excluding auto wrecking, junk or scrap materials)
 - (q) Wholesale Food Market
- (3) Any non-regulated Use Permitted in an "M2" District, provided that such use including all accessory and incidental uses, does not occupy an area in excess of 15,000 square feet, and provided further, that all smoke, dust, dirt, toxic gases and fumes or noxious odor produced upon the premises, is confined thereto.
- (4) Accessory Building and Use
- J. "M2" District - General Industrial
- (1) All Uses Permitted in an "M1" District, provided that no building used for dwelling purposes shall be permitted except within two hundred (200) feet of an abutting "R" District.
 - (2) Adult Bookstore, as regulated by Section 14
 - (3) Adult Motion Picture Theatre, as regulated by Section 14
 - (4) Adult Mini Motion Picture Theatre, as regulated by Section 14
 - (5) Adult Cabaret, as regulated by Section 14

- (6) Licensed Massage Establishment, as regulated by Section 14
- (7) Fabricating, Manufacturing and Processing Industries, provided the same conform to the following requirements:
- (a) (Enclosed Buildings) All operations are conducted and all materials and products are stored within enclosed buildings.
 - (b) (Minimum Distance) The minimum distance between any boundary line of an "R" District, and,
 - (i) A building or structure is fifty (50) feet;
 - (ii) A parking area used by passenger vehicles is fifteen (15) feet;
 - (iii) A driveway, parking area or loading dock used by trucks, tractors, semi-trailers or trailers is one hundred and fifty (150) feet;
 - (iv) A railroad switching track or spur track is three hundred (300) feet;
 - (c) (Smoke) No smoke is emitted of a density greater than No. 1 according to the Ringlemann's Scale, except that smoke of a density not in excess of No. 2 of the Ringlemann's Scale shall be permitted for a period not in excess of six (6) minutes in any hour.
 - (d) (Fly Ash) No particles from any flue or smokestack exceeds 0.2 grains per cubic foot of flue gas at a stack temperature of 500° Fahrenheit.
 - (e) (Dust) All walks, driveways and parking areas are dustproofed.
 - (f) (Dust) No dust of any kind produced by the industrial operations is permitted to escape beyond the confines of the building in which it is produced.
 - (g) (Odor) No noxious odor of any kind is permitted to extend beyond the lot lines. Tanneries, abattoirs, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacture, fertilizer manufacture and similar industries shall present detailed plans for elimination of noxious odors before a permit will be granted.
 - (h) (Gases and Fumes) No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the building in which it occurs.
 - (i) (Glare) No glare may be seen from any street or any "R" or "B" District.

(3) Accessory Building and Use

K. "M3" District - Heavy Industrial

- (1) All Uses Permitted in an "M2" District, except that a building or use providing dwelling units shall not be permitted.

(2) Fabricating, Manufacturing, Processing, Extraction, Heavy Repair and Dismantling Industries, including open land operations provided the same conform to the following requirements:

- (a) (Smoke) No smoke is emitted of a density greater than No. 2 according to the Ringelmann's Scale, except that smoke of a greater density shall be permitted for a period not in excess of six (6) minutes in any one hour.
- (b) (Fly Ash) No particles from any flue or smokestack exceeds 0.3 grains per cubic foot of flue gas at a stack temperature of 500° Fahrenheit.
- (c) (Gases or Fumes) No gases or fumes toxic to persons or injurious to property are permitted to escape beyond the confines of the building in which it occurs.

(3) Ready-Mix Concrete Plant or Asphalt Plant

(4) Accessory Building and Use

L. "IA" District - Interchange Access District

(1) An Interchange Access District is not a predetermined area with fixed boundaries within which certain uses are permitted and all other uses prohibited. It is a center which may be established upon application in each case within any district. Until it is so established, no use permitted in any district is prohibited. It may be so established only with reference to the location of an "IA" District Symbol previously established by amendment of the Zoning Maps referred to in Section 9 of this Chapter, but the establishment of such symbol does not establish an Interchange Access District or in any way affect existing zoning districts.

(2) The following are uses which may be permitted in the "IA" District; when such a District has been established in each case as herein provided:

- (a) Tourist Home; Lodging Home
- (b) Public Park and Public Information Center
- (c) Public Parking Area
- (d) Service Station and Accessory Store; Car Wash; Light Automobile Repair, as permitted under Subsection E(3) (iii).
- (e) Delicatessen
- (f) Restaurant, exclusive of curb service and consumption on exterior premises.
- (g) Public Bath
- (h) Drug Store
- (i) Hotel or Motel as regulated by Section 14

All subject to compliance with the following requirements:

- (i) The tract involved shall be of an area of not less than three (3) acres nor more than ten (10)

acres and lie wholly or partially within three-quarters (3/4) of a mile of a point represented by an "IA" District Symbol shown on the Zoning Map.

(ii) The owner or owners of such tract of land shall have submitted a preliminary development plan for the entire such tract.

(iii) Such preliminary development plan shall have received the approval of the City Plan Commission.

(3) Plan Commission Procedure:

(a) An applicant for an interchange access district permit shall apply therefore to the Commission upon forms to be prescribed by the Commission. Such application shall be filed with the Plan Commission. Such application shall be accompanied by a preliminary development plan for the entire tract, described in said petition, together with supporting data therefore.

(b) Upon receipt of such application and preliminary development plan, the Commission shall review the same and set the same for public hearing. Notice of the hearing shall be the same notice as is required under the laws of the State of Indiana for the adoption of a Master Plan or amendments thereto under the Planning Acts of the State of Indiana.

(c) The Commission shall consider such objections and shall review the proposed development plan and supporting data on the basis of the requirements of this Chapter. Thereafter, the Commission shall take action as follows:

(i) If it shall find that such preliminary plan meets the requirements of this Chapter, it shall approve the same and so notify the applicant. The applicant shall, within one hundred eighty (180) days, submit to the Commission his final plan which shall be amended, approved, or disapproved by the Commission within sixty (60) days of its submission.

(ii) If it finds that upon said plan being amended, altered, or changed as specified by the Commission, it will meet the requirements of this Chapter, it shall so notify the applicant and thereupon the applicant shall prepare and file with the Commission another preliminary plan and its supporting data incorporating such specified changes. Upon the filing of the amended development plan complying with the required amendments of the Commission, the Commission shall approve the same and so notify the Zoning Enforcement Officer.

(iii) If it shall find that such plan does not comply with the requirements of this Chapter and is not susceptible of alteration, change, or amendment to meet such requirements, the Commission shall disapprove same.

(iv) Within one hundred eighty (180) days after approval of the preliminary plan, the developer shall file a final plan which shall be reviewed by the Plan Commission within sixty (60) days after filing.

(v) If either a preliminary or final is not approved in sixty (60) days after the written demand by developer to approve or disapprove same, it shall be deemed denied and an appeal lie by writ of certiorari.

(4) Development Plan Requirements:

In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall be governed by the following:

- (a) The area to be occupied by the buildings in this district shall be twenty-five per cent (25%) or less of the net area of land described in the petition. Also, a minimum of ten per cent (10%) of the area dedicated to open space, exclusive of parking, shall be set aside for planting of trees, ground cover, shrubs, and other landscaping material, which landscaping plan shall be explained in detail on said final plan. Also, the landscaping shall be completed in proportion to the square footage of buildings under roof as related to the total project area.
- (b) The location of the Interchange Access District shall be on property which has an acceptable relationship to major streets, highways, and thoroughfares which will serve the area. The plans for the proposed Interchange Access District must possess a unified and organized arrangement of buildings and service facilities which shall have a functional relationship to the property comprising the planned development and the uses of the property adjacent to the proposed development. In exercising its jurisdiction, the Plan Commission shall have the authority to restrict the size, height, and relationship of one building to another within the area involved, and architecture and actual design so long as these elements are directly related to the health, safety, convenience, welfare and morals of the community.
- (c)
 - (i) The preliminary plan shall indicate the legal description of the land for which the permit is sought.
 - (ii) The general location, general size and classification of land use of buildings and structures.
 - (iii) The general nature of the operations involved in and connected with such Interchange Access District and general layout, including the location, approximate size, arrangement and capacity of all areas to be used for vehicular access, parking, loading and unloading, and the relationship to streets or an artery giving access to said district.
 - (iv) Indication of the present and proposed sewers, water service, storm drainage.
 - (v) Area to be planted, shrubbed or otherwise landscaped.
- (d) In reviewing said plan for an Interchange Access District, the Plan Commission shall have the right to require such design standards as service roads, setbacks, dedication of public right-of-way for street and highway purposes, and other design factors related to vehicular access so long as said

conditions are directly related to the health, safety, convenience, welfare and morals of the general public.

- (e) The Plan Commission shall have the authority to permit an Interchange Access District for areas less than three (3) acres providing the developer can show that due to natural physical characteristics or barriers, it is impossible to assemble more than the three (3) acres as required by previous section of this ordinance.

(5) Issuance of Permits:

The Zoning Enforcement Officer shall issue an improvement location permit for a use contained within an interchange district as herein defined only following receipt of notice from the Plan Commission that the final development plan has been approved by the Commission. No certificate of occupancy permit shall be issued by the Zoning Enforcement Officer until all buildings, landscaping, parking lots, driveways, sidewalks, etc., are installed in accordance with the approved plan.

(6) Construction of Improvement Under Permit:

Revocation of Permit:

Any person to whom is issued an Improvement Location Permit pursuant to Paragraph (3), Subsection "I", Section 14, who fails to commence construction of the Interchange Access District development within twenty-four (24) months after such permit is issued, or who fails to carry to completion thirty (30) per cent of the total buildings and landscaping as authorized by said permit within three (3) years after said permit is issued, or within one (1) year after such construction is begun, whichever is later, shall be subject to the following penalties:

- (a) If after public hearing and proper notice thereof the Commission finds that no substantial work has been commenced on said Interchange Access District according to the development plan as finally approved by the Commission as called for in the Improvement Location Permit within three (3) years after said permit is granted, it shall be revoked by said Commission.
- (b) If the plan is not completed as required by this Subsection, failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Chapter 36, Section 25A.
- (c) The Zoning Enforcement Officer may, after investigation, seek to enjoin the operation of said Interchange Access District if a substantial compliance with said plan has not been achieved in the time limit as herein set forth.

(7) Permits:

- (a) Not more than one Improvement Location Permit for each Interchange Access District may be issued and outstanding at any one time.

1 (b) Amendments to Development Plan:

2 (i) The holder of an Interchange Access District
3 Improvement Location Permit may apply to the Commis-
4 sion at any time for an alteration, change, amend-
ment or extension of the development plan upon which
such permit is based.

5 (ii) If an application shows that additional land
6 is to be improved or used in connection with such
7 Interchange Access District Permit then the Commis-
8 sion shall proceed as in the case of original
application for an Interchange Access District
Improvement Location Permit.

9 (iii) If no additional land is embraced in the
10 application for alteration, change, amendment or
11 extension, then the Commission shall be empowered
12 to pass on such matters without requiring a public
13 hearing thereon.

14 (iv) In the event the Commission shall approve and
15 order such development plan changed, altered,
16 amended or extended, it shall so notify the Zoning
17 Enforcement Officer and he shall issue an amended
18 Improvement Location Permit accordingly.

19 M. "MHP" District - Mobile Home Park District

20 (1) Mobile Home Park Districts may be established by the
21 Common Council on the initiative of the Plan Commission
22 in accordance with a comprehensive plan for the entire
23 area within its jurisdiction, after public hearing,
24 within or including any other zoning district under this
25 Chapter. Such Mobile Home Park Districts shall remain
26 subject to the restrictions of such other districts
27 except as to any part actually occupied by a Mobile Home
28 Park after application and approval as herein provided.
29 Until such districts have been so established initially
30 on the initiative of the Plan Commission, no petitions
31 for such zoning or applications for approval of Mobile
32 Home Parks shall be received.

33 (2) The additional permitted use in a Mobile Home Park
34 District is Mobile Home Parks as defined in Section 3,
and subject to the procedure and approval as herein
provided.

35 (3) After Mobile Home Park Districts have been established,
applications for approval of development plans for a
Mobile Home Park may be filed with the Plan Commission,
and its procedure thereon shall be as provided for
Interchange Access Districts under Section 14L (3) of
this Chapter as added by General Ordinance No. G-21-65.

(4) Development Plan Requirements:

In determining its approval or disapproval of a proposed
development plan and supporting data, the Commission
shall be governed by the following:

(a) The minimum area shall be eight (8) acres.

(b) The owner-developer shall submit a development plan
showing the name of the mobile home park; its
location by township, section, or other legal
description, the name and address of the developer;

scale; date; north arrow; location, widths and names of all existing streets or public ways, railroads rights-of-way, utility easements, parks and other public open spaces, existing buildings, and structures within and adjacent to the tract; adjoining boundary lines of all adjacent land uses describing the land use or some other means of identification; the layout of proposed streets, driveways, alleys, and crosswalks within the proposed mobile home park; the layout of the proposed lots, their numbers and dimensions; the location of parcels of land intended for public use; the mobile home limit lines within each of the lots; contours, both existing and proposed, at intervals of not more than five (5) feet; location and type of all utility easements on the site or immediately adjacent to it; such other data as the Commission may by rule require.

- (c) All lots within the park shall be a minimum of forty (40) feet wide measured along a perpendicular to the side lot line, in the case of an irregular shaped lot the average lot width shall be at least forty (40) feet; minimum lot area shall be 3,000 square feet exclusive of the roadway drives and other open public spaces, but may include offstreet parking spaces; minimum side yard of six (6) feet and minimum rear yard of eight (8) feet; in no case shall a mobile home be located nearer than fifteen (15) feet from the nearest boundary line of the mobile home park; in no instance shall a mobile home be located nearer than six (6) feet from the edge of the street improvements.
- (d) Minimum street or driveway improvements within the mobile home park where off-street parking is provided - 30 feet; where no off-street parking is provided - 36 feet.
- (e) Streets shall be surfaced and improved to the standards and specifications of the Fort Wayne Board of Public Works.
- (f) At the time of application, a typical cross-section of any and all streets in the area must be submitted to the Board of Public Works for their approval.
- (g) Parking - Parking spaces shall be provided at the rate of two (2) parking spaces per lot.
- (h) Sidewalks, thirty (30) inches in minimum width, shall be provided and shall be so designed to meet the standards of the Fort Wayne Board of Public Works.
- (i) Street lighting shall be provided in accordance with the standards of the Fort Wayne Board of Public Works and the light value on all occupied streets shall be a minimum of 1/10th foot candle.
- (j) Screening - Screening of a type and design at the discretion of the Plan Commission shall be provided where any mobile home court is bounded by a public street, highway, or developed residential area.
- (k) Recreation area sufficient in size and activity shall be provided in each mobile home court. The size of the activity shall be at the discretion of the Plan Commission at the time of approval.

- (l) All sewer and water service shall be installed by the developer and shall conform to the minimum standards of the Fort Wayne Board of Public Works and the Health Department having jurisdiction.
- (m) The developer shall provide the Plan Commission with a statement from the school authorities having jurisdiction in the location of the proposed Mobile Home Park that the increased school enrollment, as a result of this mobile home park, will not cause undue hardship on the school required to serve the area involved.
- (n) All driveways, access roads, streets and lanes within the mobile home park shall be identified by some means so as to avoid confusion on the part of police and emergency equipment when called to a particular location within the mobile home park.
- (o) In the event the developer proposes to establish driveways or streets within the mobile home park as a public street, the design shall meet the minimum standards as prescribed by the Subdivision Control Ordinance of the City of Fort Wayne with the exception of improvement widths which shall be defined as Section M(4) (C).
- (p) At the time of approval, the developer shall show evidence that all common areas, open spaces, driveways, sidewalks, recreational facilities, and spaces other than the actual trailer lots shall be maintained. This evidence can be in the form of assessment against the lots, a restrictive covenant enforceable by the city or other suitable means of assurance that all public properties will be maintained within the mobile home park.
- (q) The developer shall provide a storage building on each trailer lot consisting of at least 50 square feet of enclosed floor space.
- (5) As to Issuance of Permits, Construction of Improvements under Permits, Revocation of Permits and Amendments to Development Plan, the provisions for Interchange Access Districts under Section 14L (5), (6) and (7) of this Chapter as added by General Ordinance No. G-21-65 shall be applicable.

N. Planned Unit Development. (G-100-70, 10/27/70)

- (1) Intent. Ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers can produce Planned Unit Developments which are in keeping with overall land use intensity and open space objective of the Master Plan while departing from the strict application of use, setback, height and minimum lot size requirements of several zones. The intent of this section is to permit such flexibility and provide performance criteria for Planned Unit Development which; permit a creative approach to the development of residential land; accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the zoning code and subdivision code; provide for an efficient use of land, resulting in smaller networks of utilities and streets and thereby lower housing costs; enhance the appearance of neighborhoods through preservation of natural features, the

provision of underground utilities where feasible and the provision of recreation areas and open space in excess of existing zoning and subdivision requirements; provide an opportunity for new approaches to living environment; and provide an environment of stable character compatible with surrounding residential areas.

- (2) Voluntary alternate procedure. The use of the Planned Unit Development procedures contained herein is not mandatory for the development of any parcel of ground. The intent and purpose of this process is to provide a voluntary alternate procedure which maximizes the utilization of land primarily for the benefit, use, and enjoyment of the future residents of that area and the existing residents of the City of Fort Wayne and its environs. In a Planned Unit Development open space and common recreational areas and facilities are the environment and livability benefits furnished to the resident and community in lieu of large individual lots.
- (3) Permitted Use. Pursuant to Planning Act of 1947, Chapter 174, and subject to the regulations, standards, and conditions set forth herein, Planned Unit Developments shall be permitted in Fort Wayne's planning jurisdiction upon obtaining final development plan approval from the Plan Commission. A special exception certification for a Planned Unit Development or part thereof may be issued only after (1) final subdivision approval thereof by the Plan Commission, and (2) filing the approved plan in the Office of the Recorder of Allen County.
- (4) Location. Planned Unit Developments are permitted only in R1, R2, R3, RA, RB, B1A, B1B, B4 and M1 Zoning Districts.
- (5) Principles of Planned Unit Development. The Planned Unit Development is a permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an essential and important element of the plan related to effecting the long-term value of the entire development.
- (6) Standards and criteria. Subject to the provision set forth herein, Planned Unit Developments are permitted uses on sites consisting of no less than ten (10) contiguous acres unless the Commission and Council permits a lesser acreage because of unusual circumstances.
- (7) Uses and Requirements.
 - (a) Residential Uses. Permitted land use requirements of the zone within which a Planned Unit Development is located shall apply, with the following exceptions:
 - (i) Open space reservations may be considered for population density and building intensity increases;
 - (ii) Permitted types of dwelling units may include single family detached homes, town houses, garden apartments or high-rise apartments;
 - (iii) Condominium, cooperative individual, municipal or any other type of ownership hereby is permitted.

1 (b) Non-residential uses. Non-residential uses, limited
2 to those specifically approved by the Plan Commission,
3 are permitted in a Planned Unit Development provided
4 that such uses primarily are for the service and
5 convenience of the residents of the development and
6 further provide that:

7 (i) No store shall exceed 10,000 square feet of
8 gross floor area; and,

9 (ii) The total mercantile and office space permitted
10 within a Planned Unit Development shall not exceed
11 forty (40) square feet of gross floor area under
12 roof per dwelling unit in the development, excluding
13 in such computation, buildings used for non-profit
14 educational, recreational or cultural purposes.
15 However, the Commission may exclude mercantile and
16 office space if adequate facilities are proposed or
17 are existing in the area.

18 (c) Minimum Requirements.

19 (i) Yard, setback, lot size, type of dwelling unit,
20 height, frontage requirements, and use restrictions
21 may be waived for the Planned Unit Development,
22 provided that the spirit and intent of this section
23 are complied with in the total development plan, as
24 determined by the Plan Commission. The Plan Commis-
25 sion may determine that certain setbacks be required
26 within all or a portion of the perimeter of the site
27 and shall exercise ultimate discretion as to whether
28 the total development plan does comply with the
29 spirit and intent of this section.

30 (ii) Every dwelling unit shall have access to a
31 public street, walkway or other area dedicated to
32 common use.

33 (iii) The approximate location of structures, shown
34 on the conceptual development plan, shall be so
35 arranged as not to be detrimental to existing or
36 other proposed structures or to the development of
37 the neighborhood.

38 (d) Privacy. Each development shall provide reasonable
39 visual and acoustical privacy for dwelling units.
40 Fences, insulation, walks, barriers, and landscap-
41 ing shall be used, as appropriate, for the protec-
42 tion and aesthetic enhancement of property and the
43 privacy of its occupants, screening of objectionable
44 views, or uses and reduction of noise. Highrise
45 buildings, if permitted, shall be located within a
46 Planned Unit Development in such a way as to dissi-
47 pate any adverse impact on adjoining low-rise
48 buildings and shall not invade the privacy of the
49 occupants of such low-rise buildings.

50 (e) Off-Street Parking. Parking convenient to all
51 dwelling units and other uses, shall be provided
52 pursuant to the minimum requirements of the Rating
53 Chart I of this ordinance. Where appropriate,
54 common driveways, parking areas, walks and steps
55 shall be provided, maintained and lighted for night
56 use. Screening of parking and service areas may be
57 required through ample use of trees, shrubs, hedges
58 and screening walls.

(f) Perimeter Requirements. If topographical or other barriers within two hundred (200) feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Plan Commission shall impose either of the following requirements, or both:

(i) Structures located on the perimeter of the development must be set back in accordance with the provisions of the zoning ordinance controlling the area within which the development is situated; and,

(ii) Structures located on the perimeter of the development must be well screened in a manner which is approved by the Commission.

(g) Interior Streets. The minimum roadway width of two-way streets shall be twenty-seven (27) feet. Such streets shall be paved according to city specifications for residential streets and maintained in good condition and lighted at night. The Plan Commission shall determine streets that must be dedicated so that proper vehicular traffic circulation is achieved between developments. No angle parking shall be permitted on any street.

(h) Sidewalks. Sidewalks shall be provided as deemed necessary by the Plan Commission.

(i) Swimming Pools. All swimming pools within a Planned Unit Development shall comply with the provisions of Chapter 37 of the Municipal Code.

(8) Density. Density (Dwelling units per acre) may be increased if the character of the development and/or amenities incorporated in the development warrant such increases provided that in no case shall the density increase cause the density of the Planned Unit Development to be more than thirty-three percent (33%) in excess of the density which would be achieved under standard zoning regulations.

The Plan Commission shall determine the density which may be permitted within the Planned Unit Development by using the land use intensity Rating Chart I as a guide and modified by any increases in density permitted under Paragraph 8 B of this ordinance. Any additional density allowed shall be at the discretion of the Commission.

(a) Planned Unit Development in more than one zone. If the Planned Unit Development is in more than one zone, the number of allowable dwelling units must be separately calculated for each portion of the planned development that is in a separate zone, and must then be combined to determine the number of dwelling units allowable in the entire Planned Unit Development.

(b) Density increases. Density increase shall be governed by the precepts listed below, which are to be treated as additive, and not compounded:

(i) Open space reservation shall be considered for density increases according to the following provision:

1 For improved and unimproved common open space

2 (A) The first acre of common open space per 20 acres
3 gross, if improved, permits a maximum increase of
4 eight (8) percent; if first acre of common open
5 space is unimproved, six (6) percent is allowed.

6 (B) The second acre of common open space per 20
7 acres of gross, if improved, permits a maximum
8 increase of four (4) percent; if unimproved, three
9 (3) percent is allowed.

10 (C) Each additional acre of common open space per
11 20 acres of gross, if improved, permits a maximum
12 increase of three (3) percent; if unimproved, two
13 (2) percent is allowed.

14 (ii) Character, identity and architectural and siting
15 variation incorporated in a development shall be consid-
16 ered cause for density increases not to exceed fifteen
17 (15) percent, provided these factors make a substantial
18 contribution to the objectives of a Planned Unit Develop-
19 ment. The degree of distinctiveness and the desirable
20 variation achieved shall govern the amount of density
21 increase which the Plan Commission may approve. Such
22 variations may include, but are not limited to the follow-
23 ing:

24 (A) Landscaping (a maximum increase of five (5)
25 percent); streetscaping; open spaces and plazas;
26 use of existing landscape; pedestrian way treatment;
27 and recreational areas.

28 (B) Siting (a maximum increase of five (5) percent);
29 visual focal points; use of existing physical fea-
30 tures such as topography; view; sun and wind orienta-
31 tion; circulation pattern, physical environment;
32 variation in building setbacks; and building groups
33 (such as clustering).

34 (C) Design features (a maximum increase of five (5)
35 percent); Street sections; architectural styles;
36 harmonious use of materials; parking areas broken by
37 landscape features; and varied use of house types.

38 (c) When density increase is not permitted. If the Plan
39 Commission finds that any of the following conditions
40 would be created by an increase in density permitted in
41 subsection paragraph 8B, it may either deny any applica-
42 tion for increase in density, or, limit the increase in
43 density by an amount sufficient to avoid the creation of
44 any of the following conditions:

45 (i) Inconvenient or unsafe access of the development.

46 (ii) Traffic congestion in streets adjoining the develop-
47 ment.

48 (iii) An excessive burden imposed on parks, recreational
49 areas, schools, and other public facilities which serve
50 or are proposed to serve the development.

51 (d) Notification of density increase. The developer will be
52 informed at the time of the approval of the Planned Unit
53 Development, if the Commission should grant additional
54 density.

1 (9) Open Spaces. "Common Open Space" is defined as a parcel or
2 parcels of land or an area of water, or a combination of land
3 and water, designed and intended for the use and enjoyment of
4 residents of the Planned Unit Development, or of the general
5 public. Improved common open spaces may contain accessory
6 structures and improvements necessary or desirable for reli-
7 gious, educational, non-commercial; recreational areas are
8 encouraged, such as children's informal play in close proximity
9 to individual dwelling units, the concentration of dwellings;
10 formal parks, picnic areas, playgrounds; and scenic open areas
11 and communal non-commercial recreational facilities. The Plan
12 Commission shall have sole discretion as in determining if
13 open space is improved or unimproved space based upon plans
14 submitted by developer.

15 (a) Conveyance and maintenance of common open space. All
16 common open space, shown on the final development plan
17 and recorded in the office of the Recorder of Allen
18 County must be conveyed in accordance with one of the
19 following methods:

20 (i) By dedication to the city department responsible for
21 maintenance of the parcel as municipally owned and
22 maintained common open space, provided the parcel
23 is acceptable to that city department; or

24 (ii) By leasing or conveying title (including beneficial
25 ownership) to a corporation, association or other
26 legal entity. The terms of such lease or other instru-
27 ment of conveyance must include provision, suitable to
28 the Plan Commission for guaranteeing: (A) the continued
29 use of such land for the intended purpose; (B) continuity
30 or proper maintenance for those portions of the open space
31 land requiring maintenance; (C) when appropriate, the
32 availability of funds required for such maintenance;
33 (D) adequate insurance protection; and (E) recovery for
34 loss sustained by casualty, condemnation or otherwise.

35 In any event, the developer must file in the office
of the City Plan Commission, at the time the approved
final subdivision plat is filed, legal documents which
will produce the aforesaid guarantees and, in particular,
will provide a method for restricting the use of common
open spaces for the designated purposes.

36 (b) Utility and continuity for common use. All common open
37 space proposed for dedication to the City of Fort Wayne
38 must be acceptable to it with regard to the size, shape,
39 location and improvement. In addition, the applicant
40 must show that the dedication of such areas as common
41 open space will be of benefit to the general public of
42 Fort Wayne and its environs.

43 (10) Improvements.

44 (a) Circulation facilities. The arrangement of public and
45 common ways for pedestrian and vehicular circulation in
46 relation to other existing or planned streets in the area
47 and to the Master Plan, together with provisions for
48 street improvements, shall be in compliance with standards
49 set forth in subsection paragraph 7 E and paragraph 7 G
50 above and in the Subdivision Control Ordinance. Upon
51 application by developer and good cause shown, the Plan
52 Commission may permit changes or alterations of such
53 standards which are consistent with the spirit and intent
54 of this section.

(b) Utilities. Whenever reasonably possible, all Planned Unit Developments shall provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. Provisions shall be made for acceptable design and construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm waters, prevent erosion and the formation of dust. Utilities and maintenance of facilities shall be in accordance with the requirements and regulations of the Fort Wayne Board of Public Works. A Planned Unit Development application shall not be approved unless adequate assurance is given that public or quasi-public water and sanitary sewer service will be available, except that upon application by the developer and good cause shown. The Plan Commission may modify or waive this requirement provided such action is consistent with the spirit and intent of this section.

(c) Pedestrian circulation. The pedestrian circulation system and its related walkways shall be insulated completely and as reasonably as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. This shall include, when deemed to be necessary by the Plan Commission, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

(11) Subdivision review. It is the intent of this ordinance that subdivision review under the Subdivision Control Ordinance be carried out as an integral part of the review of a Planned Unit Development under this section. The plans required under subsection 17 of this ordinance must be submitted in a form which substantially will satisfy requirements of the Subdivision Control Ordinance for the preliminary and final plan approvals. However, if any provisions of this ordinance and the Subdivision Control Ordinance are in conflict, the more restrictive or detailed requirements shall be met, unless specifically waived or altered by the Plan Commission.

It is the intent of this section to permit the submission of final subdivision applications for the whole, a part, or parts of the overall Planned Unit Development.

(12) Procedure. A generalized summary of the steps for consideration and approval of Planned Unit Development and subdivision plans relating thereto is as follows:

- (a) Pre-application conference or conferences are held with the Director of Planning in order to obtain information and guidance in preparing the Planned Unit Development application.
- (b) The Planned Unit Development application (conceptual and schematic) with plans and statements is submitted to the Plan Commission and a public hearing is held.
- (c) If the Planned Unit Development plan is approved, the applicant is authorized to proceed with the preparation of the preliminary subdivision application. If the plan is disapproved then the Commission shall state the reasons for the rejection of the plan.
- (d) The preliminary subdivision application is filed with the Plan Commission for Commission action.

- (e) If the preliminary plan is approved, the final subdivision plan is filed with the Plan Commission. The Commission shall approve, modify and approve, or disapprove the application within sixty (60) days after a complete application is filed.
- (f) The applicant is notified of Plan Commission action. Approved subdivision plans shall be recorded as required herein and by the Fort Wayne Subdivision Control Ordinance.
- (g) The applicant shall commence construction on the approved subdivision within six (6) months, and begin construction in one (1) year on the approved Planned Unit Development following recordation of approved plans. Upon failure to do so, the Planned Unit Development and approvals are voidable. Work shall not commence on approved commercial or industrial sites until 50% of the Unit Development is completed and occupied.
- (13) Applicant. Planned Unit Development applications shall be filed in the name or names of the recorded owner or owners of property included in the development, as shown in the Allen County records. However, the applications may be filed by holder(s) of an equitable interest in such property. If recorded title is changed for all or any portions of such property prior to issuing final P.U.D. approval, the records of the Plan Commission and related documents shall be amended to reflect such changes before maps and documents are recorded by the Allen County Recorder, as provided herein.
- (14) Pre-application conference. To obtain information, each applicant shall confer with the Director of Planning and interested department heads in connection with the preparation of the Planned Unit Development application. The general outlines of the proposal, evidences schematically by sketch plans, are to be considered before submission of the Planned Unit Development application. Thereafter the Director of Planning shall furnish the applicant with his written comments regarding such conference, including appropriate recommendations to inform and assist the applicant prior to his preparing the components of the Planned Unit Development application. It is not required that any person requesting a pre-application conference be an owner or holder of an equitable interest in the subject property.
- (15) Planned Residential Unit Application.
- (a) All Planned Unit Development plans shall be submitted to the Plan Commission with an application in the form to be prescribed by it. The Plan Commission shall charge for the processing of the application of the proposed improvements, a fee of One Hundred Dollars (\$100) for each application. This fee shall be in addition to the fee prescribed in the subdivision code.
- (b) Within forty (40) days after a complete Planned Unit Development application has been filed with the Plan Commission, the Commission shall hold a public hearing, which shall be construed as satisfying any requirement for a subdivision hearing.
- (c) The Plan Commission shall approve, modify and approve, or disapprove any such application within forty (40) days after the public hearing. The Planned Unit Development application shall include the following:

1 (i) A declaration by the developer in which there is
2 furnished:

3 (A) An evaluation of the proposed Planned Unit
4 Development, together with the factors considered in
the evaluation;

5 (B) A general statement regarding the nature and
6 location of common open space and the means by which
the developer will guarantee its continuity and
maintenance;

7 (C) The general location and purpose of all non-
8 residential structures;

9 (D) A general statement indicating the proposed types
10 and location of dwelling units, the anticipated
population density associated with each type; and

11 (E) The method by which utilities will be provided.

12 (ii) Conceptual and schematic plans incorporating the
following elements:

13 (A) Those listed in subsection 8 hereof:

14 (B) Conceptual plans of the entire site showing:

15 (1) Existing contours accompanied by outline of
16 grading plans.

17 (2) Typical cross-sections.

18 (3) Drainage control.

19 (4) Conceptual location of all main and acces-
20 sory structures accompanied by an outline ex-
plaining intended heights, coverage and treatment
of yards.

21 (5) General outline of motor vehicle parking
22 and loading provisions.

23 (6) General traffic circulation features, pub-
24 lic and private streets, width of right-of-way
and roadway, location of vehicular access points
thereto.

25 (7) Pedestrian circulation features, walks and
26 paved areas.

27 (8) Landscaping and forestry features.

28 (9) General nature and location of public and
29 private utilities and community facilities and
services, including maintenance facilities.

30 (10) Recreational and other non-building areas
designated.

31 (d) Common Open Space Information, including:

32 (i) Percentage of acreage of common open space in each
33 part of the development.

34 (ii) General nature of common open space use.

35 (iii) Topographical factors affecting common open space.

- (e) A schematic plan summarizing:
- (i) Residential densities for each part of the development.
 - (ii) Maximum square footage of gross floor area (under roof) of mercantile and office space.
 - (iii) Acreage of common open space in each part of the development.
- (f) A document describing the proposed phasing program for the Planned Unit Development for all dwelling units, non-dwelling structures, recreational and other common facilities and open space improvements.
- (16) Approval, notice and authority to proceed.
- (a) Upon approval of the Planned Unit Development application by the Planning Commission and the Common Council, the Director of Planning forthwith shall:
 - (i) Furnish the developer with written notice of the approval.
 - (ii) Cause the Planned Unit Development to be noted on the face of the Official Zoning Map of the City of Fort Wayne by outlining the boundaries of land affected thereby.
 - (iii) File in the Commission Office a certified copy of the Planned Unit Development conceptual and schematic plan.
 - (b) The land described in the above notice shall be used only in accordance with the uses and densities shown on the certified Planned Unit Development conceptual and schematic plan, except as provided in subsection 21.
 - (c) When the above procedures have been completed, the developer may proceed with the preparation of the preliminary subdivision application.
- (17) Subdivision Processing.
- (a) Subdivision Plans. Subdivision plans shall be submitted in accordance with the Subdivision Control Ordinance to a scale of 1 inch = 100 feet. Subdivision plans also shall show the following:
 - (i) Preliminary
 - (A) Pedestrian ways for general circulation
 - (B) Outside parking areas
 - (C) Areas to be kept open for community use
 - (D) Parcels for subsequent sale (if any)
 - (E) Streets and easements
 - (ii) Final
 - (A) Exact engineering data on boundaries, streets and ways, easements, parcels for sale and monuments, in accordance with subdivision ordinance.

(B) Cross reference to recorded Planned Unit Development schematic plan.

(iii) Final subdivision plans may be submitted for the whole Planned Unit Development at one time, or such plans may be submitted for a part or parts of the Planned Unit Development from time to time.

(b) Documents.

(i) At the time the preliminary subdivision application is filed with the Plan Commission, the developer also shall file:

(A) Project cost estimates for all public improvements in the subdivision plan;

(B) Other statements required by the subdivision ordinance.

(18) Final Approval. Within six (6) months following the approval of the preliminary subdivision plan, the applicant shall file with the Plan Commission a final subdivision plan containing in final form all the information required. Upon written request by the applicant, the Plan Commission, upon showing of good cause by the developer, may extend for six (6) months the period for filing the final subdivision plan. Within sixty (60) days after the complete final subdivision application is filed, with all necessary documents and exhibits, the Plan Commission must approve, approve and modify, or disapprove it.

(19) Recording. Upon approval of the final subdivision application, the Plan Commission shall notify the applicant and thereafter the maps and other related documents shall be recorded in the office of the Allen County Recorder. If the Plan Commission approves the final subdivision application with modifications, the applicant shall cause such modifications to be made and then proceed as above.

(20) Failure to begin Planned Unit Development.

(a) If no construction has begun in the Planned Unit Development within one (1) year from the approval of the Planned Unit Development and recording of documents, said approval shall lapse and be of no further effect. The Plan Commission, upon showing a good cause by the developer, may extend for periods of one (1) year, the time for beginning construction.

Nothing herein shall be considered as affecting such lapse and revocation if the developer commences construction. If construction commences, the final Planned Unit Development approval may be modified only in accordance with subsection 21 hereafter.

(b) If the construction of the improvements in any subdivision within a Planned Unit Development has not begun within six (6) months from the date the approved subdivision plan was recorded, said subdivision approval shall lapse and be of no further effect. The Plan Commission, for good cause, may extend for periods of six (6) months the time for beginning construction. Except as provided in subsection A, above, the lapsing of subdivision approval shall not result in the lapsing of a Planned Unit Development approval. Notification by registered mail of such lapse shall be forwarded to the developer.

Improvements are defined as streets, water, sewer and storm drainage.

(21) Revisions of approval final Planned Unit Development. The development shall conform to the approved Planned Unit Development plan and the approved final subdivision plan. The applicant, his successors and assigns shall make no alterations, additions or deletions to the Planned Unit Development plan, the related documents, or to the site, except as provided herein. Upon final approval, changes may be made only pursuant to a new submission of a Planned Unit Development application which shall be processed and approved in accordance with this section. The Plan Commission may authorize minor changes, provided that the overall density is not increased, without a new Planned Unit Development application.

(22) Phasing. The establishment of common open spaces and construction of public or common recreational facilities shown on the recorded planned unit development plan together with the construction of other non-residential structures shall proceed substantially in accordance with the phasing program referred to in Section 15:6.

After general construction commences, the Director of Planning shall review, at least once every six (6) months, all building permits issued and compare them to the overall development phasing program. If he determines that the rate of construction of residential units or non-residential structures substantially differs from the phasing program, he shall so notify the developer and the Zoning Enforcement Officer, in writing; thereafter the Zoning Enforcement Officer may issue such orders to the developer as he sees fit, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or non-residential structure until compliance is achieved.

(23) Violation. Whenever the Plan Commission shall find, in the case of any approved Planned Unit Development, that any of the terms, conditions, or restriction upon which such approval was granted are not being complied with, the Plan Commission may rescind and revoke such approval. Notice thereof shall be given in accordance with subsection 20.

Violation of a Planned Unit Development, as approved, shall constitute a violation of the Zoning Ordinance.

Section 16. HEIGHT REQUIREMENTS - ALL DISTRICTS.

A. Except as hereinafter provided, no building or structure shall be erected, altered, enlarged or reconstructed to exceed the height limit established for the district where such building or structure is located, as follows:

<u>District</u>	<u>Maximum Height</u>
R-1, R-2	25 feet
R-A, R-B	35 feet
R-3, B-3-B, B-4	50 feet
B-1-A, B-1-B, B-2, B-2-A, IA	35 feet
B-3-A	400 feet
M-1, M-2, M-3	75 feet

B. Exception to Height Limitations:

(1) In "R1" and "R2" Districts, limiting height not to exceed 25 feet, any permitted structure may be increased in height not to exceed 35 feet, provided the required side yards are increased an additional foot for each 3 feet such structure exceeds 25 feet.

- (2) In "RA" and "RB" Districts, limiting height not to exceed 35 feet, any permitted structure may be increased in height not to exceed 45 feet provided the required side yards are increased an additional foot for each 1 foot such structure exceeds 35 feet.
- (3) On through lots 150 feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.
- (4) On through lots more than 150 feet in depth, the height regulations and basis of height measurements for the street permitting the greater height shall apply to depth of not more than 150 feet from that street.

	1 Story Detached	One Story Townhouse (or Apt.)	2 Story Detached	2 Story Townhouse	2 Story Apartment	3 Story Apartment	6 Story Apartment
R1	3.5	-----	3.5	-----	-----	-----	-----
R2	3.5	4.4	3.5	4.4	4.4	-----	-----
R3	3.5	5.4	3.5	5.4	5.4	5.4	6.0
RA RB	3.8	4.8	3.8	4.8	4.8	4.8	-----

Note: The land use intensity rating between 3 and 6 stories will be prorated over 6 stories determined by Commission.

B1A, B1B, B3B, B4 and M1 Districts are permitted the same land use intensity as an R3 District.

Land Use Intensity Rating & Ratios Permitted
(Based On Gross Acreage of Tract)

Land Use Intensity Rating	FAR	OSR	RSR	LSR	TCR	OCR
3.3	0.12	6.4	0.22	4.8	2.0	1.8
3.5	0.14	5.45	0.20	4.0	2.0	1.65
3.8	0.18	4.4	0.19	3.0	1.8	1.6
4.0	0.2	3.8	0.18	2.6	1.7	1.5
4.4	0.26	2.8	0.16	1.8	1.4	1.3
4.8	0.34	2.1	0.12	1.3	1.4	1.2
5.4	0.53	1.4	0.12	0.78	1.2	0.96
6.0	0.8	0.88	0.095	0.5	0.96	0.8

LAND USE INTENSITY RATING

FAR Floor Area Ratio .. is maximum square footage of total floor area permitted for each square foot of land area.

OSR Open Space Ratio .. is minimum square footage of open space required for each square foot of floor area.

LSR Living Space Ratio .. is minimum square footage of nonvehicular outdoor space required for each sq. ft. of floor area.

1 RSR Recreation Space Ratio .. is minimum sq. footage of recreation space
2 for each square foot of floor area.

3 OCR Occupant Car Ratio .. is minimum number of parking time limits required
4 for each living unit.

5 TCR Total Car Ratio .. is minimum number of parking spaces required for each
6 living unit.

7 (5) Penthouses or roof structures for the housing of elevators,
8 stairways, tanks, ventilating fans or similar equipment re-
9 quired to operate and maintain the building, fire or parapet
10 walls, skylights, television aerials, electrical transmission
11 and communication poles and towers, theatre screens, steeples,
12 roof signs, flagpoles, chimneys, smokestacks, wireless masts,
13 water tanks, grain elevators, silos, gas containers, indus-
14 trial installation requiring a vertical production procedure,
15 such as flour mills, steel mills and refineries, or similar
16 structures may be erected above the height limits herein
17 prescribed, but no such structures or any place above the
18 height limit be allowed for the purpose of providing addition-
19 al floor space for residential, business or industrial use.

20 (6) In an "R3" Zone located somewhere within the west one-half of
21 Section 1, Section 2, North one-half of Section 11, or the
22 Northwest one-quarter of Section 12, all in Township 30 North,
23 Range 12 East, Fort Wayne, Allen County, Indiana, a greater
24 height than 50 feet may be permitted up to a maximum allowable
25 height not to exceed twelve stories or 125 feet, whichever is
26 less.

27 Section 17. RESIDENTIAL LOT AREA REQUIREMENTS.

28 A. Except as hereinafter provided, no residential building or structure
29 shall be erected unless such building or structure conforms and no
30 building or structure shall be altered, enlarged or reconstructed
31 unless such alteration, enlargement or reconstruction conforms with
32 the area requirements of the district in which it is located as
33 follows:

District	Min. Width at Building Line	Min. Lot Area (Square Feet)	Required Lot Area Per Dwelling Unit;	
			No. of Units and Sq. Ft. Per Unit	
R1	50 feet	6000	1	6000
R2	50 feet	6000	1	6000
			2	3000
R3, B1, B3A, B3B, B4, M1, M2	50 feet	6000	1	6000
			2	3000
			3 or more	1500
RA	75 feet	10000	1	10000
			2	7000
			3 or more	see Section 14(D), 10
RB	60 feet	7200	1	7200
			2	5000
			3 or more	see Section 14(D), 10

1 B. Exceptions to Area and Width Requirements:

- 2 (1) Recorded Lots Less than Minimum Area - Lots established by
3 legally recorded plat or deed at the time of the enactment of
4 this chapter which have less than the minimum area requirement
5 established by this section, may nevertheless be used for any
6 use permitted within the district in which such lot is located.
- 7 (2) Through Lot (May be Two Lots) - Where a through lot has a depth
8 of 200 feet or more, and has an area of 10,000 square feet or
9 more, said lot may be treated as two lots with the rear lines
10 of each approximately equidistant from the front lot lines.
- 11 (3) "RA" Districts, City Water and City Sanitary Sewer Facilities -
12 Where in an "RA" District, city water and city sanitary sewer
13 facilities are installed, the minimum width at the building
14 line, the minimum lot area and the required lot area per dwelling
15 unit for lots served by such facilities shall be the same
16 as that prescribed for an "RB" District.
- 17 (4) Where in an "RA" District, City water and a public or quasi-
18 public aerobic-type treatment system designed to serve a
19 minimum of fifty (50) families are installed, the minimum
20 width at the building line, the minimum lot area and the re-
21 quired lot area per dwelling unit for lots served by such
22 facilities shall be the same as that prescribed for an "RB"
23 District.
- 24 (5) "R3" District - In an "R3" District the Zoning Enforcement
25 Officer may issue an improvement location permit and a
26 certificate of occupancy for a multi-family dwelling having
27 minimum lot areas of one thousand (1,000) square feet per
28 dwelling unit providing the following conditions are satisfied:
- 29 (a) The number of bedrooms per living unit does not exceed
30 two bedrooms in any of the living units where the mini-
31 mum lot area is less than 1,500 square feet per unit.
- 32 (b) The side yard which adjoins an apartment building shall
33 be increased an additional three feet for each additional
34 story above two stories in height.
- 35 (c) The side and rear yards which adjoin a single or double
family residential building are increased three feet
for each additional living unit exceeding a density of
1,500 square feet per unit in addition to the normal
yard requirements set out in Section 17, Chapter 36 of
the Municipal Code. However, the combined total required
side or rear yard as established by all sections of the
Zoning Ordinance need not exceed 150 feet.
- (d) The Zoning Enforcement Officer shall issue an improvement
location permit when the developer has satisfactorily
proven to the Zoning Enforcement Officer that the follow-
ing conditions exist:
- (i) The increased density that will result by the instal-
lation of this use will not impose any hardship on the
existing schools serving the area in which the development
will take place.
- (ii) All existing sewers, water lines, streets and side-
walks serving the area proposed for development are
adequate to handle the increased density that will occur
as a result of the establishment of the use involved.

(iii) The increased density as proposed by the improvement location permit will not impose any hardship on the following elements of the Development Plan of the City of Fort Wayne:

- (A) Land Use Plan
- (B) Thoroughfare Plan
- (C) Sewer Plan
- (D) Water Plan
- (E) School Plan
- (F) Park and Playground Plan

(e) If the Zoning Enforcement Officer does not issue an improvement location permit within fifteen (15) days after written demand to do so by a developer or applicant, an appeal will lie to the Board of Zoning Appeals.

(f) The parcel of land upon which the use is erected shall have direct public access to a street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities, and other services such as mail delivery, garbage collection, fire and emergency units, etc.

(g) The arrangement of buildings shall be such that in the event the land is subdivided there shall be sufficient space between buildings, between buildings and the street, and between buildings and property lines to allow for the minimum platting requirements of the Subdivision Control Ordinance and the Zoning Ordinance of the City of Fort Wayne.

(h) The minimum area of the site to be developed, exclusive of all public streets, alleys, or other public ways, shall not be less than 45,000 square feet with a minimum lot frontage of 150 feet.

(i) The nearest 15 feet to any side or rear property line adjoining a single family residence building shall be landscaped and in no event shall parking be permitted nearer than 15 feet to the side or rear property line adjoining said single family residence building.

(j) All parking spaces on existing or proposed street right-of-way shall be for parallel parking only.

(k) In no event shall the Zoning Enforcement Officer issue an improvement location permit or a certificate of occupancy for a use where the density exceeds one thousand (1,000) square feet per living unit for structures of three (3) to five (5) stories and one thousand two hundred and fifty (1,250) square feet for structures two (2) stories or less except by action of the Board of Zoning Appeals.

(l) All improvements of which the maintenance would become the responsibility of the City of Fort Wayne in the event of subdivision shall meet the requirements of the Subdivision Control Ordinance appearing as Chapter 28A of this Code, and the specifications of the Fort Wayne Board of Public Works.

(6) In an "R3" Zone located somewhere within the west one-half of Section 1, Section 2, North one-half of Section 11, or the Northwest one-quarter of Section 12, all in Township 30 North, Range 12 East, Fort Wayne, Allen County, Indiana, the minimum lot area per dwelling unit may be less than the 1,000 square feet per unit as required by paragraph (5),

Subsection B, Section 16, Article III, Chapter 36 of this Municipal Code, providing the minimum lot area per dwelling unit is not less than 700 square feet per unit in the case of six through nine stories in height or 600 square feet per dwelling unit in the case of ten through twelve stories in height, subject to the following conditions:

(a) The parcel of land upon which the use is erected shall have direct public access to a street as defined in the Zoning Ordinance for vehicular traffic, off-street parking, utilities, and other services such as mail delivery, garbage collection, fire and emergency units, etc.

(b) The number of bedrooms per living unit does not exceed two bedrooms in any of the dwelling units where the minimum lot area is less than 700 square feet per unit.

C. Only One Main Building On a Lot - Every building hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one residential building and its accessory buildings on one lot.

Section 18. YARD REQUIREMENTS - ALL DISTRICTS.

A. Except as hereinafter provided, no building or structure shall be erected unless such building or structure conforms, and no building or structure shall be altered, enlarged or reconstructed unless such alteration, enlargement, or reconstruction conforms with the yard regulations of the district in which it is located, as follows:

(1) Front Yard Requirements - There shall be a front yard which shall have a minimum depth as follows:

<u>District</u>	<u>Depth in Feet</u>
R1, R2, R3	25
RA, RB - Equal to one-half of the width of the street right-of-way on which the lot fronts. The right-of-way width shall be either that of an existing street or a proposed street identified in the City of Fort Wayne Thoroughfare Plan, whichever is greater, provided that the required depth of these front yards shall not be less than 30 feet and need not be more than 60 feet.	
BLA, BLB - Other Than Residential Use	15
B3A, B3B	None
M1, M2 - Other Than Residential Use	None
B2, B2A, B4, M3 - Other Than Residential Use	75
BLA, BLB, B4, M1, M2 - For Residential Use	25

(2) Front Yards On A Through Lot - At each end of a through lot there shall be a front yard of the depth required by this section for the district in which each street frontage is located, and one of such front yards may serve as a required rear yard.

(3) Front Yard, Between Buildings - Where a lot is situated between two lots, each of which has an existing main building thereon, the front yard requirements of such lot shall be the average of the front yards of said existing buildings.

(4) Front Yard, Adjoining Building - Where a lot abuts only one lot having an existing main building thereon, the front yard requirement of such lot shall be the average of the front yard of the existing building and the required front yard.

(5) Side Yard Requirements - There shall be two side yards for each lot, the minimum width of each of which and the aggregate width of both of which shall be as follows:

<u>District</u>	<u>Width of Each Yard</u>	<u>Aggregate Width of Both Yards</u>
R1, R2, R3 and B1A, B1B, B3B, B4, M1, M2 when used for residential purposes on first floor.	5 feet	25% of Lot Width or 20 feet whichever is less.
RA, RB - One Dwelling Unit	10% of Lot Width	25% of Lot Width
More than one dwelling unit.	Above, plus 2 feet per additional unit	Above, plus 4 feet per additional unit
B1A, B1B, B2, B2A, B3B, B4, M1, M2, M3, when the lot abuts an "R" District	3 feet for each 12 feet of building height, or fraction thereof, but not less than 4 feet on the side which abuts an "R" District	Twice the "Each Yard" Requirement where applicable
B1A, B1B, B2, B2A, B3B, B4, M1, M2, M3, when the lot does not abut an "R" District	No requirements	None
B3A	No requirements	None

(6) Side Yards Waived - For the purpose of side yard regulations, dwellings with common party walls shall be considered as one building occupying one lot.

(7) Rear Yard Requirements - There shall be a rear yard for each lot as indicated below, and the minimum depth of such yard shall be as follows:

<u>District</u>	<u>Depth</u>
For Residential Use in All Districts Permitting Such Use.	25% of Lot Depth, or 25 feet, whichever is less.
B1A, B1B, B2, B2A, B3A, B3B, B4, M1, M2, M3, when abutting an "R" District, otherwise none required	20% of Lot Depth, or 20 feet, whichever is less.

(8) Rear Yard, Accessory Building - An accessory building not exceeding 20 feet in height may occupy not more than 30% of the area of a required rear yard, provided that no accessory building shall be closer than three (3) feet to a side lot line.

B. General Provisions and Exceptions to Yard Requirements:

(1) Yards Apply to Only One Building - No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with

the provisions of this chapter shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or any lot be considered as providing a yard or open space for another lot whereon a building is to be erected.

(2) Projections Into Yards:

(a) Cornice, Sill, Chimney or Fireplace - A cornice, eave belt course, sill, canopy or other similar architectural feature (not including bay window or other vertical projection which shall be a part of the main building) may extend or project into a required side yard not more than 2 inches for each 1 foot of width of such yard and may extend or project into a required front or rear yard not more than 30 inches. Chimneys or fireplaces may project into a required front, side or rear yard not more than 2 feet, provided the width of such side yard is not reduced to less than 3 feet.

(b) Fire Escape - A fire escape may extend or project into any front, side or rear yard not more than 4 feet.

(c) Open Stairway or Balcony - An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required rear yard not more than 4 feet and such balcony may extend into a required front yard not more than 30 inches.

(d) Open Porch - An open platform or landing which does not extend above the level of the first floor of the building, may extend or project into any required front, side or rear yard not more than 6 feet, provided, that the width of a side yard is not reduced to less than 3 feet.

(e) Fence or Wall - A fence, latticework screen, hedge or wall, not more than 7 feet in height, may be located in the required side or rear yard, and a hedge, maintained so as not to exceed 3 feet in height, may be located in any required front yard. Provided, however, that nothing contained in this chapter shall be deemed to prohibit the construction or maintenance of a fence of any height in connection with any permitted agricultural use.

(f) Trees, Shrubs, Flowers, or Plants - Trees, shrubs, flowers or plants shall be permitted in any required front, side or rear yard, provided it does not violate the provisions for corner setbacks as required in this section.

(g) Other Specified Structures - Walks, driveways, curbs retaining walls, mailboxes, name plates, lamp posts, bird baths and structures of a like nature shall be permitted in any required front, side or rear yard.

(3) Corner Visibility - No fence, wall, hedge or other planting or other obstruction to vision, extending in excess of 3 feet above the established street center line grade shall be erected or maintained on that part of the corner lot that is included between the lines of intersecting streets and a line intersecting them at points of 15 feet distant from the intersection of the street lines.

(4) On a corner lot the required rear yard, as defined by the Zoning Ordinance, may be reduced to no less than fifteen (15) feet; subject to the following conditions:

- (a) The front yard complies with the minimum setback requirements as established by other sections of the Zoning Ordinance or platted building lines.
- (b) The side yard, as defined by the Zoning Ordinance, adjacent to a side street shall also meet the minimum front yard requirements of the Zoning Ordinance or platted building lines, which ever are more restrictive.
- (c) The internal side yard, as defined by the Zoning Ordinance, shall not be less than twenty-five (25) feet.

In the event that a permit is issued based upon the above exception, allowing a fifteen (15) foot rear yard, than in no event shall the internal side yard of twenty-five (25) feet be encroached upon except by variance of the Board of Zoning Appeals.

- (5) On an internal lot which does not have parallel sides or parallel front and rear lines, the required side or rear yards may be established by using an average distance between the building and the non-parallel side or rear line. However, in no event, shall any part of the house be nearer than six (6) feet from a side line and fifteen (15) feet from a rear line, unless authorized by the Board of Zoning Appeals.
- (6) Junk Yard, Refuse Dumps and Open Land Use Screen Fencing:
 - (a) An opaque, solid fence having a height above ground level of not less than eight (8) feet shall be erected on all perimeters of all Junk Yards, as defined in this chapter, Refuse Dumps and Public Garages with outside over-night storage of ten (10) or more vehicles, as defined in this chapter. The fencing shall be uniform material, color, and height, provided, however, that the provisions of paragraph (3) of this section referring to corner visibility must be adhered to.
 - (b) Any Junk Yard, Refuse Dump, or Public Garage with over-night storage for ten (10) or more vehicles existing as a permitted or non-conforming use, whether legal or not, upon effective date of this paragraph, must, if they are to continue, have an opaque fence as described in paragraph (a) above erected on all the perimeters of said use not later than six (6) months from enactment of this ordinance.

Section 19. LOT COVERAGE IN SPECIFIED DISTRICTS.

In the districts hereinafter listed, residential buildings or structures, including accessory buildings or structures, shall be erected, enlarged or reconstructed to exceed the maximum lot coverage established for the district wherein such buildings or structures are located as given below. In computing such coverage, the area of open porches and terraces shall be excluded.

<u>District</u>	<u>Maximum Coverage</u>
R1,R2,R3,B1A, B1B, B3B, B4, M1, M2	30% of lot area or 1,800 square feet, whichever is greater.
RA, RB	25% of lot area

Section 20. RESIDENTIAL BUILDING SIZE - SPECIFIED DISTRICTS.

No building or structure shall be erected, enlarged, or reconstructed for residential purposes having a ground floor area, exclusive of

unenclosed porches, terraces, breezeways and garages, of less than the minimum established for the district wherein such building or structure is located as follows:

<u>District</u>	<u>Ground Floor Area of Bldg. (Sq.Ft.)</u>	
	<u>One Story</u>	<u>More Than One Story</u>
R1	672	480
R2 - One Dwelling Unit	672	480
Two Dwelling Unit	960	480
R3 - One Dwelling Unit	672	480
Two Dwelling Unit	960	480
Three or More Units	Above, Plus 480 per unit	Above, Plus 400 per unit
RA, RB, B1A, B1B, B3A, B3B, B4, M1, M2	Same Requirements as R3 District	

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Section 21. IMPROVEMENT LOCATION PERMIT.

- A. No Building or structure, except buildings incidental to non-residential agricultural uses shall be erected, reconstructed, enlarged or moved until an Improvement Location Permit shall have been applied for in writing and issued by the Zoning Enforcement Officer.
- B. No Improvement Location Permit shall be issued by the Zoning Enforcement Officer for the proposed erection, reconstruction, enlargement or moving of a building or structure unless the proposed erection, reconstruction, enlargement or moving of a building or structure conforms with the provisions of this chapter.
- C. Applications for Improvement Location Permits shall be made upon form prescribed by the Zoning Enforcement Officer and shall be accompanied by plans and specifications of sufficient detail to enable the Zoning Enforcement Officer to determine whether the proposed improvements will comply with the provisions of this chapter.
- D. The applicant shall post said permit in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving.
- E. Every permit may be revoked if active work is not commenced within sixty (60) days after the date of its issue, and continued with due diligence to completion; and the Zoning Enforcement Officer shall judge if due diligence is being shown and shall notify the owner or agent in case due diligence is not being shown.
- F. If the Zoning Enforcement Officer determines that the work under any permit is not being continued with due diligence to completion or is not proceeding according to the detailed statement, plans and specifications, upon which such permit was issued, or is proceeding in violation of law, it shall be his duty to give written notice thereof to the owner or his agent, requiring that the same must be immediately rectified.
- G. If the owner or his agent neglects to comply with the provisions of such notice within such time as may be specified by the Zoning Enforcement Officer, or fails to commence active work within sixty (60) days after the date of issue, it shall be the further duty of the Zoning Enforcement Officer to revoke said permit and written notice thereof shall be immediately served upon the owner, agent, superintendent or contractor in charge of the work, or posted on the property.

1 H. After such revocation of permit, any person performing any work in
2 or about said structure, building or premises shall be guilty of a
3 misdemeanor and upon conviction thereof shall be fined not less than
4 one dollar nor more than one hundred dollars.

5 Section 22. CERTIFICATE OF OCCUPANCY.

6 A. No occupancy, use or change of use, except buildings incidental
7 to non-residential agricultural uses shall take place until a
8 certificate of occupancy shall have been applied for in writing
9 and issued by the Zoning Enforcement Officer, in the following
10 cases: SECTION 8. Section 23 of Chapter 36 of Municipal
11 Code.

- 12 (1) Occupancy and use of a building or structure hereafter erected
13 or enlarged.
- 14 (2) Change in use of an existing building or structure.
- 15 (3) Occupancy and use of vacant land except for the raising of
16 crops.
- 17 (4) Change in the use of land to a use of a different classifica-
18 tion except for the raising of crops.
- 19 (5) Any change in use of a nonconforming use.

20 B. If the proposed use is in conformity with the provisions of this
21 chapter, the Certificate of Occupancy therefore shall be issued
22 within three (3) days after the application for the same has been
23 made; provided, however, that no Certificate of Occupancy shall be
24 issued in connection with the construction, alteration, enlargement
25 or moving of a building or structure until such construction,
26 alteration, enlargement or moving shall have been completed. Each
27 Certificate of Occupancy shall state that the building or proposed
28 use of a building or land complies with all the provisions of this
29 chapter.

30 C. All improvements in any subdivision duly recorded after July 1,
31 1964, shall be installed in a manner that complies with the general
32 and detailed specifications handbook adopted by the Board of Public
33 Works of the city on August 14, 1961, and any amendments thereof
34 which have been or may be duly adopted by such board from time to
35 time, before a Certificate of Occupancy shall be issued. A Certi-
36 ficate of Occupancy for any use lying within the jurisdiction of
37 the City Plan Commission of the city shall not be issued until all
38 contractual inspection costs or inspection fees required by
39 General Ordinance No. G-40, adopted on August 25, 1959, and appear-
40 ing as Title 28A in the 1959 edition of the Municipal Code of the
41 city, and any amendments thereof, have been paid to the Engineering
42 Permit Office.

43 Section 23. COMPLETION OF EXISTING BUILDINGS.

44 A. Nothing in this chapter shall require any change in the plans,
45 construction or intended use of any building or structure, the
46 construction of which was legally authorized upon the effective
47 date of this chapter and which construction is being diligently
48 prosecuted pursuant to such authority. Such entire building or
49 structure shall be completed within two (2) years from the effec-
50 tive date of this chapter.

51 B. Nothing herein shall prevent the reconstruction of a wall or other
52 structural part of a building declared unsafe by the proper
53 authorities of the city or of the state.

1 Section 24. ENFORCEMENT.

- 2 A. It shall be the duty of the Zoning Enforcement Officer to enforce
3 the provisions of this chapter in the manner and form with the
4 powers provided by this chapter and any and all other provisions
5 of this Code, and as provided in the laws of the State of Indiana.
6 B. All departments, officials and employees of the city which are
7 vested with the duty of authority to issue permits or licenses
8 shall conform to the provisions of this chapter and shall issue no
9 permit or license for any use, building or purpose if the same
10 would be in conflict with the provisions of this chapter.

11 Section 25. FILING FEES

- 12 A. For each application for an improvement location permit, the sum of
13 Three Dollars (\$3.00) to be paid to and collected by the Zoning
14 Enforcement Officer.
15 B. For each application for a certificate of occupancy the sum of
16 Three Dollars (\$3.00) to be paid to and collected by the Zoning
17 Enforcement Officer.
18 C. For each petition for an appeal from the decision of the Zoning
19 Enforcement Officer to the Board of Zoning Appeals, a fee of Fifty
20 Dollars (\$50.00) to be paid to and collected by the Zoning Enforce-
21 ment Officer, the receipt for which shall accompany the petition.
22 D. For each application for the approval by the Commission of a "B2"
23 Regional Shopping Center Development Plan or a "B2A" Neighborhood
24 Shopping Center Development Plan, or an "IA" Interchange Access
25 Center Development Plan, a fee of Fifty Dollars (\$50.00) to be
26 paid to and collected by the Zoning Enforcement Officer, the receipt
27 for which shall accompany the application.
28 E. For each petition for an amendment to this chapter, a fee of fifty
29 dollars (\$50.00) to be paid to and collected by the City Controller,
30 the receipt for which shall accompany the petition.
31 F. No part of any filing fee paid pursuant to this section shall be
32 returnable to the applicant or petitioner.

33 Section 26. PENALTIES.

- 34 A. Any person, whether as principal, agent, owner, lessee, tenant,
35 contractor, builder, architect, engineer or otherwise who violates
36 any provision of this chapter shall be guilty of a misdemeanor and
37 upon conviction shall be punished by a fine of not less than ten
38 dollars nor more than three hundred dollars for each offense. Each
39 day of the existence of any violation of this chapter shall be a
40 separate offense.
41 B. The erection, construction, enlargement, conversion, moving or
42 maintenance of any building or structure and the use of any land
43 or building which is continued, operated or maintained contrary to
44 any provisions of this chapter is hereby declared to be a nuisance
45 and in violation of this chapter and unlawful. The Plan Commission
46 by its Zoning Enforcement Officer may institute a suit for injunc-
47 tion in the Circuit Court or any Superior Court of the County to
48 restrain any person or governmental unit from violating any
49 provision of this chapter and to cause such violation to be pre-
50 vented, abated or removed. Such action may also be instituted by
51 any property owner who may be especially damaged by the violation
52 of any provision of this chapter.
53 C. The remedies provided for in this section shall be cumulative and
54 not exclusive and shall be in addition to any other remedies
55 provided by law.

ARTICLE VI. BOARD OF ZONING APPEALS

Section 27. ORGANIZATION.

The Board of Zoning Appeals of the city, as presently constituted, is hereby recreated and re-established and continued and shall exist hereafter subject to and in accordance with the provisions of Chapter 174 of the Acts of 1947 of the General Assembly of the State and all acts now or hereafter amendatory thereto.

Section 28. MEETINGS.

The Board shall meet at least once each month on a regular day set by the Board and at other times at the call of the chairman or of not less than three (3) members thereof.

Section 29. PROCEDURE.

The procedure of the Board shall be governed by the provision of Chapter 174 of the Acts of 1947 of the General Assembly of the State of Indiana and all acts amendatory thereto. The Board shall adopt rules and regulations concerning the filing of appeals, the giving of notices, the conduct of its hearings and for all other of its operations and procedures as shall be necessary to carry out its duties. It shall keep minutes of its proceedings, records of its examinations and other official actions, prepare written findings and record the vote on all actions taken. All minutes and records of the Board shall be public.

Section 30. POWERS OF THE BOARD OF ZONING APPEALS.

A. The Board of Zoning Appeals shall:

- (1) Hear and determine appeals from and review any order, requirement decision or determination made by the Zoning Enforcement Officer and any other administrative official or board charged with the enforcement of this chapter or any regulation adopted pursuant hereto;
- (2) Permit and authorize contingent uses and special uses subject to and within the limitations prescribed by the provisions of this chapter;
- (3) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done; provided, however, that no action shall be taken or decision made except after public hearing.

- B. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all powers of the officer or board from whom the appeal is taken. It may impose such conditions, regarding the location, character and other features of the proposed building, structure or use with which the appeal before it is concerned, as it may deem advisable in furtherance of the purposes of this chapter and the protection of the public convenience and welfare, provided, however, that it shall not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this chapter.

ARTICLE VII. PRIVATE RESTRICTIONS.

Section 31. WHEN CHAPTER MORE RESTRICTIVE.

Whenever the provisions of this chapter are more restrictive or impose higher standards than are required by any statute of the state or any provision of any other chapter of this Code or of any other ordinance of this city or by any restrictions or limitations as to particular property established by deed, plat or otherwise running with the land, the provisions of this chapter shall govern.

Section 32. WHEN OTHER PROVISIONS MORE RESTRICTIVE.

Whenever the provisions of any statute or of any other chapter of this Code or of any other ordinance of this city, or any restriction or limitation established by plat or deed or otherwise running with the land, is more restrictive or imposes higher standards than are required by this chapter, the provisions of such statute, chapter, ordinance, plat, deed, restriction or limitation shall govern.

ARTICLE VIII. SEVERABILITY.

Section 33. If any part, parts, section, sections, provision, clause or portion of this chapter shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this chapter as a whole or of any other part, section, clause, provision or portion of this chapter.

ARTICLE IX. HISTORICAL DISTRICTS.

Section 34. PURPOSE OF ARTICLE.

Preservation of historical sites and structures being in the public interest, to promote the general welfare and carry out the objects of the city, it is hereby declared to be the policy of the city to assist in doing so as hereby provided.

Section 35. DESIGNATION.

The Common Council, on the recommendation of the City Plan Commission, after public hearing, may from time to time designate areas within the zoning jurisdiction of the Commission as historical districts. The Plan Commission may consult with the Mayor's Commission on the Preservation and Restoration of Historical Landmarks and the Allen County-Fort Wayne Historical Society. Historical districts may be part of any other zoning district under this chapter, and shall remain subject to the restrictions of such other district.

Section 36. PERMIT FOR ALTERATION OR DESTRUCTION OF STRUCTURES - APPLICATION.

No application for any special permit is required under this article. If an application is made under other provisions of the law for demolition or substantial alteration of any structure in an historical district established under Section 34, or for the erection of any new structure in an historical district so established, the Zoning Enforcement Officer shall forthwith refer the application to the Board of Zoning Appeals. No such referral is required if the application is for an alteration which is not substantial.

Section 37. SAME - ISSUANCE.

The Board of Zoning Appeals, after consultation with the Mayor's Commission on the Preservation and Restoration of Historical Landmarks, and the Allen County-Fort Wayne Historical Society, and after a public hearing, shall determine whether the proposed action would be detrimental to the historical nature of the area. If the Board determines

that it would not be so detrimental to the area, the requested permit shall be issued.

Section 38. SAME - REFUSAL.

If the Board of Zoning Appeals, after consultation with the Mayor's Commission on the Preservation and Restoration of Historical Landmarks and the Allen County-Fort Wayne Historical Society, and after a public hearing determines that the proposed action would be detrimental to the historical nature of the area, it shall be so reported to the Mayor, and the requested permit shall not be issued.

Section 39. TERMINATION OF HISTORICAL ZONING - Repealed

Section 40. SAVING CLAUSE.

The enactment of this chapter shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or part or provision of any chapter of the Municipal Code of the City of Fort Wayne, Indiana, 1946 prior to the taking effect of this chapter.

NOTE: The text of Section 36 and 37 above were amended by G-96-70, 7/28/70, while Section 38 was repealed in its entirety.

ARTICLE X - Flood Plain Management and Control

Section 41. General Criteria For Flood Plain Regulations.

A. Objectives - The objective of these criteria are to provide a uniform basis for the preparation and implementation of sound flood plain regulations for Fort Wayne's rivers and streams to:

- (1) Protect human life and health.
- (2) Protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- (3) Provide for public awareness of the flooding potential.
- (4) Minimize public and private property damage.
- (5) Minimize surface and ground-water pollution which will affect human, animal, or plant life.
- (6) Control Flood-plain uses such as fill, dumping, storage of material, structures, buildings, and any other works which acting alone or in combination with other existing or future uses which will cause damaging flood heights and velocities by obstructing flows and reducing valley storage.
- (7) Control development which will, when acting alone or in combination with similar developments, create an unjustified demand for public investment in flood-control works by requiring that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.
- (8) Control development which will, when acting alone or in combination with similar development, cause flood losses if public streets, sewer, water, and other utilities must be extended below the flood level to serve the development.
- (9) Control development which will, when acting alone or in combination with similar development, create an additional burden to the public to pay the costs of rescue, relief, emergency preparedness measures, sandbagging, pumping and temporary dikes or levees.
- (10) Control development which will, when acting alone or in combination with similar development create an additional burden to the public for business interruptions, factory closings, disruption of transportation routes, interference with utility services, and other factors that result in loss of wages, sales, production, and tax write offs.

- (11) Help maintain a stable tax base by the preservation or enhancement of property values for future flood-plain development. In addition, development of future flood-blight areas on flood plains will be minimized and property values and the tax base adjacent to the flood plain will be preserved.

Section 42. Definitions - Whenever used or referred to in this ordinance unless a different meaning appears from the context:

- A. "Board" - Board of Zoning Appeals
- B. "Commission" - Fort Wayne City Plan Commission
- C. "Flood" or "Flood Water" - means the water of any river or stream in the State or upon or adjoining any boundary line of the State which is above the bank and/or outside the channel and banks of such river or stream.
- D. "Flood Hazard Areas" - means those areas of the flood plain which have not been adequately protected from flooding by the regulatory flood by means of dikes, levees, reservoirs, or other works approved by the Commission.
- E. "Flood Plain" - means the area adjoining the river or stream which has been or may hereafter be covered by flood water.
- F. "Flood-Proofing" - a combination of structural provisions, charges, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood-hazard area.
- G. "Flood Protection Grade" - means the elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.
- H. "Floodway" (FW) see (M) "Regulatory Floodway"
- I. "Floodway Fringe" (FF) - means those portions of the flood hazard areas lying outside the floodway.
- J. "General Flood-Plain District" (GF) see (D) "Flood Hazard Areas".
- K. "INRC" - The Indiana Natural Resources Commission.
- L. "Obstruction" - any dam, wall, wharf, embankment levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede retard, or change the direction of the flow of water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
- M. "Regulatory Flood" - means that flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a one hundred year period, as calculated by a method and procedure which is acceptable to and approved by the Commission. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.
- N. "Regulatory Flood Profile" - means a longitudinal profile along the thread of a stream showing the maximum water surface elevations attained by the regulatory flood.

1 O. "Regulatory Floodway" or "Floodway" - means the channel of a
2 river or stream and those portions of the flood plains adjoining
3 the channel which are reasonably required to efficiently carry and
4 discharge the peak flood flow of the regulatory flood of any
5 river or stream.

6 P. "River or Stream" - shall mean all open channels, whether natural,
7 man-made, or notified by man, which carry or discharge water.

8 Section 43. Flood Hazard Area Delineation.

9 The areal extent of the flood hazard area shall include all land as
10 indicated on maps supplied by the Army Corps of Engineers, the Soil
11 Conservation Service and the Department of Housing and Urban Develop-
12 ment. The regulatory floodway, floodway fringe, the peak discharge
13 and the flood profile shall be determined by the INRC utilizing the
14 best available technology and shall be approved by the Commission.

15 Section 44. Establishment of District Boundaries.

16 The mapped flood-hazard areas within the jurisdiction of this ordinance
17 are hereby designated as the GENERAL FLOOD-PLAIN DISTRICT (GF). The
18 Boundaries of this district shall be shown on the official Zoning Map.
19 Within this district all uses not permissable by right or as special-
20 permit uses shall be prohibited.

21 Section 45. District Boundaries Changes Thereto.

22 The "General Flood-Plain District" shall be divided into a "Floodway
23 (FW)" and a "Floodway Fringe (FF) District" upon determination and
24 delineation by the INRC and the Commission. When this division occurs
25 the provisions outlined in Section 46 and 47 shall automatically take
26 effect.

27 Section 46. General Flood Plain District. (GF)

28 A. General Provisions and Uses. It is the intent of this ordinance
29 to control and manage the uses of land in the General Flood
30 Plain (GF) so as to meet the objectives identified and superimposed
31 over the existing zoning districts. However, before an Improve-
32 ment Location Permit can be issued for any permitted uses, the
33 Zoning Enforcement Officer must ascertain whether said use or
34 accompanying structure will be detrimental to the objectives
35 identified in Section 40. A. (1) - (11).

36 B. General Use Permit. All construction, building, alteration of
37 structures or land, change of use, or initiation of a new use in
38 the General Flood Plain will require a "general use permit"
39 before the issuance of an Improvement Location Permit. This
40 "General Use Permit" shall be granted by the Zoning Enforcement
41 Officer.

42 C. Procedures Being Followed Regarding Construction in General Flood
43 Plain District.

44 (1) All plans submitted to the Commission for either approval
45 by the Commission or application for Improvement Location
46 Permits will be checked against the official Zoning Map. If
47 the site location falls within a flood hazard area, a
48 location map and letter will be submitted to the INRC for
49 their recommendation. Until comment is received from the
50 INRC NO action will be taken by the Commission.

51 (2) Based upon the technical evaluation of the INRC, the Zoning
52 Enforcement Officer shall determine and evaluate the specific
53 flood hazard at the site and shall determine the suitability
54 of the proposed use in relation to the potential flood
55 hazard. If he finds the proposed use suitable, he will issue

1 a "General Use Permit". Upon issuance of this permit an
2 Improvement Location Permit shall be issued forthwith provided
the other requirements of this ordinance have been satisfied.

3 If upon receipt of comments by the INRC, he finds that the
4 proposed use is unsuitable in relation to the potential flood
hazard, he shall deny the application for a "General Use Permit".
5 The applicant may then file for a hearing before the Commission
if he so chooses. The applicant shall have the burden of proof
6 to establish that the permit was wrongfully denied.

7 Both the Commission and the Zoning Enforcement Officer shall
consider the factors listed in Section 46 D (2) when making their
8 decision on the suitability of the proposed use.

9 Section 47. Floodway Districts. (FW)

10 A. Permitted uses within a regulatory floodway district. The follow-
ing land uses have acceptable low flood damage potential and shall
11 not require a special permit for construction in the floodway,
provided they do not involve any structure, obstruction, deposit,
12 or excavations. This list is intended to include examples of
open space uses which will not adversely affect the efficiency of
or unduly restrict the capacity of the regulatory floodway and are
13 reasonably tolerant of the presence of flood waters.

- 14 (1) Agricultural uses such as the production of crops, pastures,
orchards, plant nurseries, vineyards, and general farming.
15
16 (2) Forestry, wildlife areas, and nature preserves.
17
18 (3) Park and recreational uses, such as golf courses, driving
ranges, and play areas.

19 B. Special Exception Uses - Floodway Districts. The following uses
of land may have unacceptable flood damage potential; involve
20 structures, obstructions, deposits, or excavation which may
adversely affect the efficiency of or unduly restrict the capacity
of the regulatory floodway; constitute an unreasonable hazard to
21 the safety of life or property; or result in unreasonable detri-
mental effects upon fish, wildlife, and botanical resources.
These uses will require a "Special Permit" for construction in
22 the Floodway as provided in "Special Permit" uses of this
ordinance. In general, these uses involve water management struc-
23 tures, transportation facilities, temporary or seasonal flood
plain occupancy, or public, industrial, and commercial uses which
24 are either dependent on their proximity to water or are reasonably
open in nature and flood tolerant.

- 25 (1) Water management and use facilities, such as dams, docks,
dolphins, channel improvements, dikes, jetties, groins,
26 marinas, piers, wharves, levees, seawalls, floodwalls, weirs,
and irrigation facilities.
27
28 (2) Transportation facilities, such as streets, bridges,
roadways, fords, airports, pipe lines, railroads, and utility
29 transmission facilities.
30
31 (3) Temporary or seasonal flood plain occupancy, such as circus
sites, fair sites, carnival sites, boat ramps, camps, road-
side stands, and transient amusement facility sites.
32
33 (4) Water-related urban uses, such as wastewater treatment
facilities, storm sewers, electrical generating and transmis-
sion facilities, and water treatment facilities.

(5) Other flood tolerant or open urban uses, such as flood-proofed industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theatres, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.

C. Standards for Floodway Special Use Permit Uses. All Uses. No structure (Temporary or permanent), fill (including fill for roads and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed as a special exception use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition all floodway special permit uses shall be subject to the standards contained in Section 46 D (2) of this Article.

D. Procedures for Development Within Floodway.

- (1) Any use listed in this ordinance as requiring a special use permit may be allowed only upon application to the Zoning Enforcement Officer on forms furnished by him and the issuance of a "Special Permit". Upon receipt of the application the Zoning Enforcement Officer shall forthwith submit it to the Commission.
- (2) Procedure to be followed by the Commission in passing on special permits. Upon receiving an application for a special permit involving the use of fill, construction of structures, or storage of materials, the Commission shall, prior to rendering a decision thereon; request and receive the recommendation of the INRC as to the suitability of the proposed use in relation to the flood hazard. In passing upon such applications, the Commission shall consider all relevant factors specified in other sections of this ordinance:
 - (a) The danger of life and property due to increased flood heights or velocities caused by encroachments.
 - (b) The danger that materials may be swept on to other lands or downstream to the injury of others.
 - (c) The proposed water supply and sanitation systems and the ability to these systems to prevent disease, contamination, and unsanitary conditions.
 - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - (e) The importance of the services provided by the proposed facility to the community.
 - (f) The requirements of the facility for a waterfront location.
 - (g) The availability of alternative locations not subject to flooding for the proposed use.
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (i) The relationship of the proposed use to the comprehensive plan and flood-plain management program for the area.

- (j) The safety of access to the property in times of flood or ordinary and emergency vehicles.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (l) Such other factors which are relevant to the purposes of this ordinance.

E. Fill.

- (1) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fills or other materials.
- (2) Such fill or other materials shall be protected against erosion by riprap, vegetation cover, or bulkheading.

F. Structures (temporary or permanent).

- (1) Structures shall not be designed for human habitation.
- (2) Structures shall have a low flood-damage potential.
- (3) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
- (a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flow of flood waters.
- (b) So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.
- (4) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river; and,
- (5) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood-protection elevation for the particular area or flood-proofed.

G. Storage of Material and Equipment.

- (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after Flood warning.

Section 48. Floodway-Fringe District. (FF)

- A. Floodway-Fringe District. All facilities, structures, and buildings normally found in a community, such as businesses, medical facilities, community and government buildings, industrial facilities, restaurants, commercial facilities, storage facilities, utility buildings, amusement facilities, residential buildings, and civic or fraternal facilities, may be constructed in a floodway fringe district provided that the flood protection grade for

1 all buildings shall be at least at or above the regulatory flood
2 profile and that the zoning shall be proper.

- 3 B. Procedure. Before the issuance of an Improvement Location Permit,
4 the Zoning Enforcement Officer shall determine that the proposed
5 use meets the requirements and intent of this ordinance.

6 Section 49. Conditions Attached to "Special Permits"

7 Upon consideration of the factors listed above and the purpose of this
8 ordinance, the Commission may attach such conditions to the granting
9 of special permits and variances as it deems necessary to further the
10 purpose of this ordinance.

11 Section 50. Nonconforming Uses.

12 All land uses now existing in flood hazard areas not in full compliance
13 with this rule shall be considered a nonconforming use. Except for
14 normal maintenance, any building which constitutes a nonconforming use
15 may be altered, repaired, enlarged, or extended, provided such altera-
16 tions, repairs, enlargements, or extensions do not increase the value
17 of the building, excluding the value of the land, by more than fifty
18 percent (50%) of its pre-improvement market value, and the alterations,
19 repairs, enlargements, or extensions are not otherwise prohibited or
20 restricted by state law or local ordinances. Any building which
21 constitutes a nonconforming use which is damaged by flood, fire, explo-
22 sion, act of God, or the public enemy, may be restored to its original
23 dimensions and condition, provided the damage does not reduce the value
24 of the land by more than fifty percent (50%) of its pre-damaged market
25 value. Any repairs, alteration, enlargements, or extensions, of any
26 existing nonconforming use which does not involve a building is
27 subject to the provisions of this ordinance.

28 Section 51. Variances.

29 This ordinance promulgates standards and procedures essential to assure
30 reasonable protection to present and future uses within the flood
31 plain. However, there may be a need from time to time, to permit
32 variances from these standards in particular cases within areas which
33 are almost entirely developed. The Board may grant such variances
34 only where the following conditions are met:

- 35 (1) The structure or use is located on a lot of one half acre or
less and is surrounded by existing structures; and,
(2) Good and sufficient cause exists for granting the variance;
and,
(3) Failure to grant the variance would result in extreme hard-
ship to the owners of the land; and,
(4) All possible efforts are made to minimize potential flood
damages.

If the Board grants a variance according to the above, it must
give written notice to the applicant. This written notice shall
include:

- (1) The fact that the proposed structure will be located in a
flood prone area.
(2) The number of feet that the lowest floor of the proposed
structure will be below the 100-year flood level.
(3) The fact that the flood insurance rates will be increased
commensurate with the distance below the 100-year flood level.

This notice shall be attached to the building permit and must
be displayed with it.

1 Section 52. Warning and Disclaimer of Liability.

2 The degree of flood protection required by this ordinance is considered
3 reasonable for regulatory purposes and is based on engineering and
4 scientific considerations. Larger floods can and will occur on rare
5 occasions. Flood heights may be increased by man-made or natural
6 causes, such as ice or debris jams. This ordinance does not imply that
7 area outside flood hazard areas, as defined herein, will be free from
8 flooding or flood damages. This ordinance does not create liability
9 on the part of the State of Indiana, the INRC, the Board, the
10 Commission, or the City of Fort Wayne, or any elected or appointed
11 official or employee thereof for any flood damages that result from
12 reliance on this rule or any administrative decision lawfully made
13 thereunder.

14 Section 53. Severability.

15 If any section, clause, provision or portion of this Ordinance is
16 adjudged unconstitutional or invalid by a court of competent jurisdic-
17 tion, the remainder of this Ordinance shall not be affected thereby.

18 SECTION 2. That this ordinance shall be in full force and effect
19 from and after its passage, approval by the Mayor and due legal publication
20 thereof.

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Councilman

Approved as to form and legality



City Attorney

Read the first time in full and on motion by _____,
seconded by _____, and duly adopted, read the second time
by title and referred to the Committee _____ (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of _____
_____, 19_____, at _____ o'clock _____ M., E.S.T.

DATE: _____

CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by _____,
seconded by _____, and duly adopted, placed on its
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>EISBART</u>	_____	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	_____	_____	_____	_____	_____
<u>SCHOMBURG</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: _____


CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) No. _____
on the _____ day of _____, 19_____,

ATTEST:

(SEAL)

CHARLES W. WESTERMAN - CITY CLERK


DATE _____ PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the _____ day of _____, 19_____, at the hour of _____
o'clock _____ M., E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this _____ day of _____
19_____, at the hour of _____ o'clock _____ M., E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

Read the first time in full and on motion by _____, seconded by,

Stier, and duly adopted, read the second time by title and referred to the

Committee on _____ (and the City Plan Commission for
recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers,
City-County Building, Fort Wayne, Indiana, on _____, the _____ day
of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 2-13-79

Charles W. Titelman
CITY CLERK

Read the third time in full and on motion by _____,

seconded by _____, and duly adopted, placed on its passage.

PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>HINGA</u>	_____	_____	_____	_____	_____
<u>HUNTER</u>	_____	_____	_____	_____	_____
<u>MOSES</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: _____

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE
(RESOLUTION) No. _____ on the _____ day of _____, 19____.
ATTEST: (SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____

day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 19____,

at the hour of _____ o'clock _____ M., E.S.T.

MAYOR

G-79-02-18

Bill No. _____

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance
classifying, regulating and restricting the location, height, area,
bulk and use of buildings and structures and the use of land within
the territorial jurisdiction of the City Plan Commission of the City of
Fort Wayne, Indiana, for said purposes dividing such territory into districts
and amending Chapter 33 of the Code of the City of Fort Wayne, Indiana,
1974

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Withdrawn PASS.

JOHN NUCKOLS - CHAIRMAN

SAMUEL J. TALARICO - VICE CHAIRMAN

VIVIAN G. SCHMIDT

JAMES S. STIER

WILLIAM T. HINGA

John Nuckols
Samuel J. Talarico
Vivian G. Schmidt
James S. Stier
William T. Hinga

1-8-80 CONCURRED IN
DATE _____ CHARLES W. WESTERMAN, CITY CLERK



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

city plan commission

Withdraw

12 December 1979

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

Members of the Common Council
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Schmidt:

The City Plan Commission at its Business Meeting in November of 1979 passed a motion requesting that the City Council **WITHDRAW** the currently introduced recodification, Bill No. G-79-02-18, of the Zoning Ordinance and introduce the new recodification.

We are requesting this withdrawal of Bill No. G-79-02-18 in order that the revised recodification of the Zoning Ordinance will not have amendments, but instead will be a combination of Chapter 36 of the old Municipal Code and Chapter 33 of the recodified Municipal Code.

The City Plan Commission will submit amendments to the recodified Zoning Ordinance following its passage. Some of the amendments which we hope to submit in the future include: Family Day Care, New Shopping Center Ordinance, Office Park District, and Regulated Uses.

If you have any questions regarding this matter, please contact us.

Sincerely,

Gary F. Baeten
Gary F. Baeten
Senior Planner

GFB:pb